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IN THE MATTER OF The Public Inquiries Act, being Chapter 258 of The Revised Statutes of Alberta, 1955, and Amendments thereto; and,

IN THE MATTER OF an Inquiry by a Royal Commission into the matters set out in Order-in-Council 861/67 respecting the use or attempted use by the Honourable Alfred J. Hooke of his office as a member of the Executive Council of Alberta, and the use or attempted use by Edgar W. Hinman of his office as a member of the Executive Council of Alberta.

PROCEEDINGS BEFORE
THE HONOURABLE MR. JUSTICE
W. J. C. KIRBY

C. W. CLEMENT, Esq., Q.C.,
S. A. FRIEDMAN, Esq., Q.C.,
S. H. McCUAIG, Esq., Q.C.
L. MAYNARD, Esq., Q.C.,
W. B. GILL, Esq., Q.C.,

G. A. C. STEER, Esq., Q.C.
D. H. BOWEN, Esq., Q.C.
N. S. CRAWFORD, Esq., and
J. D. HILL, Esq.
G. S. D. Wright, Esq.

Commission Counsel
Departments of Government
E. W. Hinman, Esq.
The Honourable Alfred J. Hooke
G. A. Turcott, Esq.
Mr. Neil Reimer
Dr. C. A. Allard
Liberal Association of Alberta
Progressive Conservative Party of
Alberta
Alberta New Democratic Party

W. ALAN SHORT, ESQ.,
Clerk to the Commission.

VOLUME No. 19

DATE October 12th, 1967
(Pages 1875 - 1989)

Supreme Court Reporters
EDMONTON, ALBERTA

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A Yes.

Q Post-graduate work in the way of a diploma course?

A Yes.

Q And then in 1951 you came here and were charged as the Senior Planner of the Edmonton District Planning Commission on its technical staff?

A Yes, I believe that is approximately what the title was. It was either that or Senior Planning Technician. I am not sure.

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L. O. Gertler - Clement Ex.

PROCEEDINGS before The Honourable
Mr. Justice W. J. C. Kirby, this
(Cont.) 12th day of October, A.D., 1967,
at 9:00 o'clock in the morning, at
the Court House, in the City of
Edmonton, Province of Alberta.

MR. CLEMENT: Mr. Commissioner, I will call Mr.
Gertler.

LEONARD O. GERTLER, sworn, examined by Mr. Clement:

Q Mr. Gertler, your home is presently in Waterloo, Ontario?

A Yes, that is correct.

Q And you have voluntarily come here at the invitation of the
Inquiry?

A Yes.

Q You made your home in Alberta, in Edmonton, from 1951 until
1957?

A Yes, I did.

Q Yes. Mr. Gertler, I understand that you came here to
Edmonton directly from graduating in planning work at the
University of McGill?

A Yes.

Q Post-graduate work in the way of a diploma course?

A Yes.

Q And then in 1951 you came here and were engaged as the
Senior Planner of the Edmonton District Planning Commission
on its technical staff?

A Yes, I believe that is approximately what the title was, it
was either that or Senior Planning Technician, I am not quite

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L. O. Gertler - Clement Ex.

A (Cont.) sure.

Q Yes. Then you held that post, Mr. Gertler, until 1952, at which time you were appointed the Director of the Technical Planning Staff?

A Yes, I believe it was in the late summer or fall of 1952 that I was appointed Director.

Q Yes, and what were your duties as Director during that period?

A Well, I was responsible for the staff work in fulfilment of the responsibilities of the Commission under the Planning Act of Alberta.

Q Yes. Well, there was, of course, the Commission itself, which was composed of a number of members, some representing, mostly representing municipalities and with, as I recall it, three Government appointees on it?

A Yes, that is correct.

Q Yes, and then the Commission had its staff, of which you were Director of the Technical Branch?

A Yes.

Q And could you just give us a word then as to what the duties of the Technical Branch were that you were the Director of?

A Yes. Well, they were both current and long range. As far as current work was concerned, we were involved in the day to day consideration of subdivision applications. This was a function that we performed by delegation of that authority

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L. O. Gertler - Clement Ex.

A (Cont.) from the Provincial level. As far as long range work was concerned, we were involved in basic studies of the region with a view to preparing a long range plan for the Edmonton district.

Q Just in general terms, how far did the Edmonton district go, what did it embrace actually, as far as the Planning Commission was concerned; we understand that the Municipality of Strathcona and many, and Stony Plain, and so on were involved; but the territorial area of the Commission was what in general terms?

A Well, it involved all of the rural municipalities that surrounded the City of Edmonton.

Q Yes?

A This was in all directions, north, south, west, east.

Q Yes?

A And it, of course, included the suburban municipalities of Jasper Place and Beverly.

Q Yes. Then as far as long range planning is concerned, would it cover every part of all those municipalities?

A As far as the regional aspect of the development were concerned, yes.

Q I see, and then the long range work of the Commission was an orderly planning of the entire area then?

A Yes.

Q Well then, you held that appointment, as I understand it, Mr. Gertler, until 1957, and in that year you accepted an

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L. O. Gertler - Clement Ex.

Q (Cont.) appointment to the Toronto Planning Board as its Director of Current Operations?

A Yes.

Q And subsequently still engaged by the City of Toronto you became Deputy Commissioner of Planning?

A Yes.

Q Following that you were engaged by a private consulting firm?

A Yes.

Q And ultimately, last year, 1966, you accepted the appointment at the University of Waterloo as Professor of Planning and as Director of the Planning and Resources Institute?

A Yes.

Q And you hold that post now?

A Yes.

Q And you came here from there to assist the Inquiry?

A Yes.

Q Now, Mr. Gertler, when you arrived in the City when I first saw you yesterday afternoon at about three o'clock I gave you a number of documents which are Exhibits in this cause in order, in this Inquiry, in order that you might refresh your memory from them on these events which go back as far as 1951?

A Yes.

Q Mr. Commissioner, I will state the Exhibits that I gave Mr.

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L. O. Gertler - Clement Ex.

Q (Cont.) Gertler to read between yesterday afternoon and this morning: Exhibits 159, 160, 161, 162, 163, 164, 165, 167, 169, 171, 174, 176, 185, 187A, 188 and 188A, and 261; those were the ones which appeared relevant to the period of time and the jurisdiction exercised by Mr. Gertler.

Now, having read those, as I presume you did, Mr. Gertler, could you assist the Inquiry with your recollections of the events of that period of time commencing in say November of 1951 when Exhibit 159 reached the Edmonton District Planning Commission?

A Yes. Between the period November '51 to August 1953 a proposal for the development of Section 27 and the Wye Road was considered by myself and other members of the staff and by the Commission.

Q May I just interrupt you for a moment?

A Yes.

Q Section 27 you have identified yesterday as being represented on this Exhibit 172?

A Yes. But the Commission did not during that period take any decisive action, as I recall. I became involved later, after the Municipal District of Strathcona served Notice of Motion at the Commission requesting that the Commission approve the development of Section 27 as proposed by Mr. John H. Campbell; and subsequent to that, on August 31st, my office received a subdivision application under the signature of Mr. J. H. Holloway, who was acting as the

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L. O. Gertler - Clement Ex.

A (Cont.) A.L.S. for Mr. Campbell, requesting approval of a subdivision on Section 27, 52, 23, West 4.

Q Can you identify that application from amongst the Exhibits you examined?

A I believe so, yes. This is it.

Q Yes, Exhibit 169, sir. Could we just deal for a moment, sir, with that period between 1951 and August of 1953, and give us a word, Mr. Gertler, as to what you and your staff were doing during this period in relation to what became Campbelltown; was there any activity on your part or your staff's part in relation to that at all?

A Well, I can only relate what is on the record. The application was considered and a comprehensive report was prepared evaluating the -

Q You may now, when you talk about the application, you are not talking about Exhibit 169?

A No.

Q You are talking about the one in November?

A I would say a proposal at this stage.

Q Of November of 1951?

A Yes, a proposal was considered.

Q Yes, and that is Exhibit 159 you are speaking of now?

A Yes. And the staff found that the proposal as presented was not sound, at least in the opinion of the staff it was not sound, and these views were made known to the Commission. The Commission -

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L. O. Gertler - Clement Ex.

Q By what channels, did you convey this to the Commission at a meeting?

A The staff, I believe, conveyed it to the Commission at a meeting.

Q Yes?

A I was not, as you know, Director of Planning throughout that period. Most of the activity in fact took place in '51 and '52 during the time when I was not Director of Planning.

Q Yes?

A But I was on the staff and I was involved in the evaluation of the proposal.

Q Yes?

A The Commission did, I recall, establish a Committee to look into the matter. The Committee did make a report on it.

Q Is that report amongst the Exhibits you examined?

A I believe it is.

Q Let's see if we can identify that. Exhibit 163 is the one, is one of the reports you refer to?

A Yes.

MR. WRIGHT: 161.

MR. GILL: Pardon?

MR. WRIGHT: 161.

Q MR. CLEMENT: Mr. Gertler, there is an Exhibit 161?

A That was a staff evaluation.

Q Yes, Mr. Plotkin signed it and presumably you collaborated

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L. O. Gertler - Clement Ex.

Q (Cont.) in its preparation?

A Yes.

Q And I assume from what you said you concurred in the report?

A Yes.

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L.O. Gertler - Clement Ex.

Q So, in any event, in January of 1952 it appears that a letter, namely Exhibit 165, was sent to Mr. Campbell refusing an application he had made on November 9th, 1951?

A Yes. May I proceed Mr. Clement?

Q Yes, we have taken the work of the staff up to the letter of January 17th 1952 which seems to have brought the matter to something of a halt at that point; between then and August of 1953, do you recall any particular activity?

A No I don't.

Q There is a report I think, if my memory serves me, of July of 1952? Perhaps I am wrong. I direct your attention to the letter of July 17th, 1952 from the Secretary-Treasurer of the Commission to the Secretary-Treasurer of Strathcona and it states "That the possibility of urban development on the above property " -- which is the Section 27 we are talking about -- "has now been under discussion for some little while." Does that refer to the events preceding January 17th, 1952 or do you recall whether there had been some discussion continuing in that interval between January and July?

A I don't recall discussions.

Q Well then, I am sorry to be interrupting you Mr. Gertler but I would just like to fill in as much as we can as we go along. Then, if you would proceed from July of '52 until August of '53, is there anything particular in your recollections as to what was happening?

A No.

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L. O. Gertler - Clement Ex.

Q All was quiet on the western front then?

A I believe so.

Q Now what happened then in August and September of 1953 as you recall it?

A Well, on the basis of a Notice of Motion by the Municipal District of Strathcona on August 5th of '53 and on the basis of the formal subdivision application on behalf of Mr. Campbell on August 31st, '53, the Commission in its meeting of September 9th considered that Notice of Motion and at that meeting I presented planning arguments in opposition to the proposed development.

Q Now Mr. Gertler, were your objections at that time -- I won't lead you on this. What in summary were your objections to this proposal to develop this site of Section 27?

A Well I think my objections arose primarily looking at it, not from a local point of view but from a metropolitan and regional point of view.

Q Do you mean looking at it -- a physical examination of it or seeing it on a map?

A Well I mean from the point of view of evaluating it and the point of view of the criteria which I applied.

Q Oh yes?

A And it didn't seem to me from the point of view of sound economics and sound environmental development that a proposal which required, as I recall, a sewer outfall running about four miles to the river, which required either to take water from Cooking Lake, ten miles east or to bring

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L. O. Gertler - Clement Ex.

A (cont.) a pipeline from the City of Edmonton for a distance of five miles, to provide housing initially for a few thousand people, it didn't strike me as a sound proposition from a regional point of view, whatever the local economic situation might have been. In addition, I think we could pretty well anticipate on the basis of development experience of this kind that if these facilities were introduced, such as a major water line and a major sewer line and that kind of thing, we thought there would be rather severe pressures along the path of these facilities which would produce a development pattern which was not really intended and rather than having a satellite development, this would be the beginning of a sprawl outwards from the City of Edmonton.

Those in general terms were the grounds on which I argued against the development but, as you know, the Commission notwithstanding approved the location of a townsite on Section 27 at that meeting.

Q Yes. That is in your understanding Mr. Gertler was approval in principle to the location of a townsite at that point?

A Yes.

Q And what course did the matter take after that decision?

A Well after that decision, the staff, with the knowledge of the Commission, consulted with the Municipal District of Strathcona and the developer with a view to --

Q And the developer was Mr. Campbell, of course?

A Yes.

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L. O. Gertler - Clement Ex.

Q And did you take part in these discussions?

A Yes.

Q So that you met Mr. Campbell at that time?

A Yes I did.

Q Had you met him before?

A Yes, I met him when he was presenting his case to the Commission and probably a period preceding that.

Q Consequent upon the 1951 Application?

A Yes.

Q And as to the municipality, did they have a committee to meet with you or did you meet the full council or do you recall?

A I believe my contact was through Mr. Moyer who was the representative on the Commission.

Q Oh yes, so then discussions proceeded?

A Yes, and these culminated at the meeting of the Commission February 3rd, 1954 at which I presented two proposals to the Commission.

One was to establish an effective green belt between Edmonton and the proposed townsite and the second was to -- in fact was a general plan for the town's development and a detailed layout of the first neighbourhood unit, as I recall, the southwest neighbourhood unit, which had been the product of the discussions which had taken place between February -- pardon me, between September 9th '53 and February '54.

Q Now, at this stage Mr. Gertler did you have any knowledge of

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L. O. Gertler - Clement Ex.

Q (cont.) who owned the southwest quarter of Section 27?

A Yes I did.

Q And who did?

A I understood that Mr. Hooke, the Minister of Municipal Affairs at that time.

Q Perhaps Economic Affairs?

A Economic Affairs at that time.

Q When did that first come to your attention?

A I believe it came to my attention at the time of the initial proposal in 1951.

Q Yes, had you had any talks with Mr. Hooke or met him in any way in this interval up to February 1954?

A No.

Q None at all. Are you able to say whether he was endeavouring to influence your staff in any way during that period?

A I had no indication that he was.

Q As I say, I am sorry to be interrupting you but I'd just like to get the detail as we go along Mr. Gertler. So then we come to the February 1954 meeting and you presented a proposal for a green belt. Did you have in mind there, this green belt would provide a sort of insulation or barrier against further sprawl, I believe you described it?

A Well, we wanted to protect the corridor between Edmonton and the townsite. We had already passed through the Commission a number of regulations governing land use in that area and at the time we had the concept of two categories of green belt, what we call A and B.

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L.O. Gertler - Clement Ex.

A (cont.)

The A was the more restrictive type and it was the suggestion of the staff at that time that that category of green belt be applied in the corridor between Edmonton and the townsite so that there would not be a path of urban development in that area.

Q Was that recommendation accepted in due course?

A Yes, that was accepted and the general plan and specific neighbourhood layout was also accepted by the Commission, I believe without any dissent at that time.

Q And what was the course of events?

A Well, the next thing that happened, which I recall, was that on August 9th of '54 Mr. John Campbell called at my office with final plans on linen of a subdivision layout for a part of the original area and asked me to sign my approval of the linens on behalf of the Commission.

Q Now, this was a subdivision plan?

A Yes.

Q And what relation did it bear to the subdivision plan you had presented in February?

A Well it was in the same general locality but it was a different layout.

Q Different layout, I see. Now, am I correct in this Mr. Gertler that there had to be a suitably approved and authorized general plan before any subdivision plan could become effective?

A Well, the Commission had taken that position in its previous

1-P-7

L. O. Gertler - Clement Ex.

A (cont.) deliberations, yes.

Q Yes, but the Commission in February 1954 had approved a general plan which, as I understand it, embraces the entire area under consideration and forms the basis upon which subdivision plans are subsequently made?

A Well yes but the Commission also approved a specific design for the first neighbourhood.

Q Well yes, but I would just like to take this one step at a time. We are agreed that the foundation is the general plan?

A Yes.

Q And that received the approval of the Commission in February, 1954?

A Yes.

Q And then correct me if I am wrong, I understand had received a further approval by the Provincial Planning Advisory Board? A further approval by the Provincial Planning Advisory Board?

A What required further approval?

Q The general plan, the one we have been describing and calling the general plan?

A I don't think so.

Q I see. In your recollection this plan having been approved, this general plan having been approved by the Planning Commission was a sufficient foundation and it required no further authorization?

A Yes. Now, as I recall the ground rules at that time, the

1-P-8

L. O. Gertler - Clement Ex.

A (cont.) Commission exercised approving authority for subdivisions.

Q Yes, yes?

A The Commission on the basis of its general powers --

Q Yes, yes?

A -- could set out certain planning requirements.

Q Yes?

A The Commission also had to abide by subdivision regulations of the Province which were specific things about roadways and that kind of thing.

Q Yes, I am afraid I was slightly confused in my own mind about it Mr. Gertler.

A Yes.

Q I think that has already been stated, all the approvals for the general plan at that particular time of course rested with the Commission?

A Yes.

Q Now then, following February, 1954 the acceptance of your proposals by the Commission, what was the course of development?

A Well, as I say, Mr. Campbell on August 9th, 1954 called on me at my office and requested that I sign the linens which was in the sense the final plan of the application.

Q And it varied from the one approved by the Commission?

A Yes and I did not feel that I was in a position to do so and indicated to him that I would refer the matter to a scheduled meeting of the Commission's Executive Committee which was to

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L. O. Gertler - Clement Ex.

A (cont.) be held on August 13th, which was the Friday of that week.

Q Now when Mr. Campbell presented the subdivision plan Mr. Gertler, had it been dealt with by the municipality or any other body that you know of?

A Well, from what happened subsequently at the Executive Committee, I understand that it had been considered but when Mr. Campbell came to my office I was not aware that he had been in discussion on this matter with this municipality.

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L. O. Gertler - Clement Ex.

Q I understand there is no legal significance to a consideration of such a plan by the municipality, but that it is a matter of practice that their views be taken into account by the Commission.

A Well, it was part of our established procedure that we always referred subdivision applications for the opinion of the municipality concerned.

Q And you weren't aware at that time that Mr. Campbell had apparently presented this to the municipality before he came to you. Yes, so would you proceed?

A Well, then, during that week from August 9th to 13th, I held frequent meetings with the developer with a view to resolving the difficulties of the new application; and at the executive meeting of August 13th I presented a critique of the application and made certain suggestions for revisions which would bring the application more in line with the Commission's originally approved plan.

Q You mean also more in line with subdivision regulations that were then in effect?

A Well, this was also an issue involved in that some of the standards in that particular layout did not conform to provincial subdivision regulations.

Q As I understand it, the Commission was pretty firmly bound to the regulations in this sense, that it didn't have any authority to vary them or ease their application or anything of that sort.

A That is my understanding, that the Commission did not have

1-M-2

L. O. Gertler - Clement Ex.

A (Cont.) any authority to waive any of the subdivision regulations. Well, the consequence of that executive meeting was an instruction from the executive committee to me to check with the Provincial Planning Advisory Board concerning the non-conformance to subdivision regulations, and to obtain some direction from the Board on this matter, and to report back to the Commission on that point as well as the suggested amended plan, and to put this forward for a decision by the Commission at a special meeting. A special meeting was in fact called for August 24th, but in the interim, on August 16th, the Municipal District of Strathcona, by Order-in-Council was excluded from the District Planning area, and this had the effect of removing the approving authority for subdivision regulations from the jurisdiction of the District Planning Commission, and from that date on I was not directly involved in any of the consideration of the proposed townsite development.

Q Then you mean, Mr. Gertler, that the thing just came to an end? The consideration of the revised plan of Mr. Campbell, that Mr. Campbell was putting forward, your discussions and your intended discussions with the Provincial Planning Advisory Board, and so on, all came to a stop?

A As far as I and the Commission was concerned, yes.

Q Yes -- well, this is what I meant, of course; and when did the matter next come under your purview?

A This was after the return of the Municipal District of Strathcona to the Commission, which I believe was in 1956.

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L. O. Gertler - Clement Ex.

Q Yes, and at what stage was the matter of the development of Campbelltown -- or Sherwood Park, as it is known now --- at what stage was its development when the M.D. of Strathcona returned to the Commission?

A Well, I can't recall precisely, but I believe a registered plan -- a plan had been registered.

Q You mean one of these general -- a general plan?

A Well, I cannot say specifically. I know that subdivision took place, and that the housing construction had commenced, and that there were some houses on the ground.

Q I see, so that the thing had already started to take shape then?

A Yes.

Q According to a general plan?

A I cannot really confirm from my memory that -- .

Q No, I suppose this is merely a matter of inference, yes; and then what did you have to do with it -- or the Commission and you have to do with it after the M.D. returned to the Commission? Were there subdivision plans that you had to consider?

A I don't believe that an additional subdivision application came to the Commission while I was there. I know there was an enquiry concerning what the position of the Commission would be with respect to the extension of the townsite development, and I was called upon by the Provincial Planning Advisory Board to give an opinion as to how the Commission might dispose of an application for an extension of the

1-M-4

L. O. Gertler - Clement Ex.

A (Cont.) development beyond the area that had been registered; and I gave an opinion at the time that this would be considered a new application, and have to be evaluated on its merits.

Q Mr. Gertler, I didn't put before you the subdivision plans which are reflected in Exhibit 172, but it may be possible that one or two did go before the Commission. I don't think it's of any particular importance whether they did or not. Your knowledge of the matter ended in the latter part of 1957, in any event?

A In September of '57.

THE COMMISSIONER: You left the Commission at that time, did you?

A Yes, I did.

Q MR. CLEMENT: Well then, Mr. Gertler, from the meeting of February of 1954 onwards to August of 1954, did you have any occasion to discuss any of these matters with Mr. Hooke?

A No.

Q Some discussion with Mr. Campbell, as you have said?

A Yes.

Q Now, was Mr. Hooke's name used at all in your discussions with Mr. Campbell?

A No, not that I can recall.

Q And then from August of '54 onwards, of course, it was out of your hands, and by the time they got back into your hands the thing had started to take shape.

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L. O. Gertler - Clement Ex.
- Gill Ex.

A Yes.

Q That's fine. Would you answer my friends, please?

THE COMMISSIONER: Mr. Gill?

MR. GILL EXAMINES WITNESS:

Q Thank you, Mr. Commissioner. Mr. Gertler, the green belt that you spoke of actually in your long range planning you had put a green belt around Metropolitan Edmonton before 1952; is that correct? You visualized a green belt?

A I believe the proposal had been put forward to the Commission.

Q And when you came to the Edmonton District Planning Commission this was envisioned, a green belt around Edmonton?

A This was one of the earlier concepts. I don't recall precisely what date the Commission adopted the proposal.

Q Would it be before November 9th of 1951, when Mr. Campbell's first proposal was put to the Edmonton District Planning Commission?

A I couldn't say.

Q Well, was one of your early objections to Mr. Campbell's first proposal, in November of 1951, the fact that this proposed townsite would be right in the middle of Edmonton's green belt?

A I don't know if I would put it exactly in those terms.

Q How would you put it?

A Well, in the terms that I have already expressed -- and which

1-M-6

L. O. Gertler - Gill Ex.

- A (Cont.) I might further interpret, if you like. We were looking at it from the point of view of the requirements of a new satellite development, and in a number of respects we felt that it did not meet the basic requirements.
- Q So it wasn't quite what you then called a true satellite town, by any means?
- A No, it wasn't.
- Q And it wasn't a dormitory town, as it was then defined in 1951?
- A Well, it was dormitory in a sense that it seemed to us that the conditions in the vicinity of the proposed development were not favorable to the location of new economic activities.
- Q Would it be fair to describe it as a "bastard" development?
- A A what?
- Q A "bastard" development?
- A I wouldn't use those terms.
- Q Would it be fair to use that term? It was neither one thing nor the other? Was it?
- A Well, I think I would prefer to be precise about -- .
- Q Would you call it "illegitimate" then? It wasn't a true satellite and it wasn't a true anything else, was it?
- A It was not in our opinion a sound development; it was not in the best interests of the region.
- Q And you have consistently held to that opinion?
- A While I was at the Commission, yes.
- Q I'm sorry, the acoustics are very bad -- .
- A I'm sorry.

1-M-7

L. O. Gertler - Gill Ex.

Q We have a problem -- .

A I will do my best.

Q -- hearing -- .

A I will try my best to communicate.

Q So we come to the September the 9th meeting, which in effect approved in principle the development of a townsite on the Southwest quarter of Section 27.

A Correct, yes.

Q That was of 1953?

A Yes.

Q So from November 1st, 1951, to September 9th, of 1953, Mr. Campbell consistently wanted this townsite built on that particular location?

A Yes.

Q And the planners of the Commission felt that it was in the wrong location.

A Yes.

Q And the Commission by a vote of something like nine to six approved the location of the townsite on that particular spot?

A Yes.

Q And then, as I understood your evidence-in-chief, two things happened: you built a new green belt between the proposed townsite and the City of Edmonton -- you laid it out -- you had this corridor. Is that correct?

A We proposed that, yes.

Q But that proposal was approved by the Commission?

1-M-8

L. O. Gertler - Gill Ex.

A It was approved by the Commission, yes.

Q In other words, you didn't want what I think you called "a further sprawl"; is that correct?

A Yes.

Q So you would say that Campbelltown was "a sprawl" in your view?

A No, we thought that it would precipitate a sprawl.

Q This meaning "ribbon" development?

A Yes -- well, this is a term that is sometimes used as a synonym for sprawl, yes.

Q And the other thing was a detailed layout of a subdivision of the first neighborhood?

A Yes.

Q And that was approved in February of 1954.

A Yes.

Q There was no general plan approved in February of 1954, was there, by the District Commission?

A Well, a general plan for that area?

Q An outline plan.

A I believe there was. I have only read the exhibits. I didn't have any maps with me, but as I interpret the Minute of that meeting of '54, we presented to the Commission, both a general concept of the development, which included Section 27 and I believe half of Section 34 -- presented the concept in terms of the basic road system, the location of major features such as parks and schools and shopping, and within that framework we presented a detailed layout of the first

1-M-9

L. O. Gertler - Gill Ex.

A (Cont.) neighborhood, and both of these were approved by the Commission.

Q Was there an actual outline plan drawn?

A I believe so.

Q But you had a detailed layout of the Southwest quarter of 27?

A Yes.

Q As the first neighborhood unit?

A Yes.

Q And then Mr. Campbell wanted to change it?

A On August 9th.

Q Of 1954?

A Yes.

Q And that's when he brought in these detailed linens to you?

A Yes.

Q And asked you to approve it right then and there?

A Yes.

Q And he had meanwhile been back to the M.D. of Strathcona without telling you, and got their approval for what it was worth, to the new linens?

A So I understand.

Q But he didn't bother telling you that at that time?

A No.

Q What was Mr. Campbell's role as far as you were concerned?

A Well, he was the applicant, that was his role.

Q And you knew he acted for Mr. Hooke?

A No, I didn't know that.

1-M-10

L. O. Gertler - Gill Ex.

Q Well, you knew that Mr. Hooke was the owner of the Southwest quarter of 27?

A Yes, I did.

Q And had remained the owner all this time?

A That was the presumption, that he had, yes.

Q And what was the presumption that you had?

A I made the presumption that he owned -- that I believed that the subdivision application required that the owner be stated and that his name be -- and that his name did appear on the subdivision application.

Q And you had certain revisions of this August 9th group of linens in 1954?

A Yes.

Q And might I see Exhibit 168, please? On August 13th -- this memorable meeting in 1954, the executive committee of the Edmonton District Planning Commission -- I am reading from Exhibit 168, Mr. Commissioner --- paragraph:

"The Secretary read a letter from Mr. J. H. Campbell addressed to the attention of Mr. Gertler. 'Recently I submitted to you a new plan of subdivision for the above townsite. This was submitted by reason of the fact that I found it impossible to interest contractors or financial concerns in the original plan. I therefore request that the new plan be approved as requested by the Municipal District of Strathcona, and that the previous approval be then rescinded.' "

reconsidered

Strathcona, that the previous approval be then

approved as requested by the Municipal District of

plan. I therefore request that the new plan be

contractors or financial concerns in the original

fact that I found it impossible to interest

above townsite. This was submitted by reason of the

I submitted to you a new plan of subdivision for the

addressed to the attention of Mr. Gertler. Recently

The Secretary read a letter from Mr. J. H. Campbell

Exhibit 168, Mr. Commissioner --- paragraph:

Edmonton District Planning Commission -- I am reading from

memorable meeting in 1954, the executive committee of the

And might I see Exhibit 168, please? On August 19th -- this

Yes.

linens in 1954?

And you had certain revisions of this August 9th group of

on the subdivision application.

stated and that his name be -- and that his name did appear

the subdivision application required that the owner be

I made the presumption that he owned -- that I believed that

And what was the presumption that you had?

that was the presumption, that he had, yes.

... remained the owner all this time?

... that Mr. Hooks was the owner of the Boudin

1-M-11

L. O. Gertler - Gill Ex.

Q (Cont.) That is what Campbell wanted, is it?

A Yes.

THE COMMISSIONER: What are you reading from, Mr. Gill?
The extract of the Minutes?

MR. GILL: An extract from the Minutes of the
executive committee of the Edmonton District Planning
Commission of August 13th, 1954, reported in the latter half
of Exhibit 168.

THE COMMISSIONER: Thank you.

2-B-1

L. O. Gertler - Gill Ex.

Q MR. GILL: Did you know, Mr. Gertler, while you were at that meeting that earlier that day the Municipal District of Strathcona had voted to withdraw from the Edmonton District Planning Commission?

A No, I learned that only later.

Q I see, and do you know why, do you know why the Municipal District of Strathcona left so quickly?

A Well, I can only give my interpretation for what it is worth.

Q And what is that?

A I assumed that they wished to leave the Commission so that the Commission would no longer have authority to approve subdivisions within their district.

Q And they could go somewhere else?

A Well, then of course the responsibility falls at the Provincial level, yes.

Q On the Provincial Planning Advisory Board?

A Yes.

Q I am reading from page 2 of the Exerpt of the Minutes of August 3rd, 1954:

"Mr. Gertler pointed out that the matter was first brought to them on Monday, August 9th, when Mr. Campbell introduced a new plan. He said that quite apart from the merits of this plan the Commission last February had approved a certain plan of subdivision for that particular area and that this is an entirely different plan. He would not approve or disapprove of

2-B-2

L. O. Gertler - Gill Ex.

Q (Cont.) this plan without first re-submitting it to the Commission."

Is that a correct summary of what you told that meeting?

A I believe so.

Q But it refers there to the "Commission last February had approved a certain plan of subdivision"?

A Yes.

Q That is a plan of subdivision, Mr. Gertler, is it not, as opposed to an outline or a general plan?

A Yes.

Q Thank you. About this time did you have any discussions with the then Attorney General, Mr. Lucien Maynard?

A Mr. Maynard called me on August 9th, and as I recall was quite critical of the action I had taken with respect to the Campbell application.

Q Well, Mr. Maynard called you after Mr. Campbell had brought in the limits?

A I believe so.

Q Well, how would Mr. Maynard come to be critical of your action with Mr. Campbell, had Mr. Campbell gone right to Mr. Maynard?

A I don't know.

Q Would you presume so?

MR. MAYNARD: Well!

A Well -

Q MR. GILL: Well, how would Mr. Maynard call you the same day that Mr. Campbell had been in?

2-B-3

L. O. Gertler - Gill Ex.

A I can only report that Mr. Maynard knew about the application in that he called me on that subject.

Q And how many hours was it after Mr. Campbell had been in that Mr. Maynard called you?

A It was on the same day but I cannot recall the lapse of time.

Q Yes, and Mr. Maynard was critical for you refusing to sign Mr. Campbell's limits?

A Yes.

Q What else was said?

A I don't recall what was said, I just recall the tenor of the discussion.

Q Had you ever been phoned before by the Attorney General of the Province and asked to do something?

A No.

Q And what was it Mr. Maynard asked you to do?

A I don't recall that he asked me to do anything specifically, I do recall that he was critical of my, of the action I had taken with regard to Mr. Campbell.

Q Why was he critical?

A I don't believe that he indicated why he was critical.

Q Well, what form did his criticism take?

A Well, it was not a very lengthy discussion, it was, you know, a statement I suppose of disapproval of the action I had taken, this is all; I can't recall the specific words that were spoken at the time.

Q Well, I am a little puzzled, Mr. Gertler.

A Yes.

2-B-4

L. O. Gertler - Gill Ex.

Q You were then the Director of the Edmonton District Planning Commission?

A Yes.

Q Made up of the City of Edmonton and a number of surrounding municipalities?

A Right.

Q Well, the Attorney General of the Province, has he got anything to do with the Edmonton District Planning Commission?

A Well, I was not aware of any direct connection except, of course, that obviously he was a member of the Government, but I don't recall any direct connection under The Planning Act, there might indeed be one but I don't recall.

Q Well, were you surprised to have Mr. Maynard telephone you?

A Well, I have said, it is the first time and the only time I had a call from Mr. Maynard.

Q As Attorney General?

A Yes.

Q Or otherwise?

A I believe so, yes.

Q And what exactly was said from your recollection, and I realize it is a long time ago?

A Well, I can't recall what exactly was said, I am sorry, I don't really recall except that it concerned the subdivision application and was critical of the action that I had taken.

Q In refusing to sign Campbell's latest limits?

2-B-5

L. O. Gertler - Gill Ex.

A Yes.

Q And then what happened on say August 10th, the Tuesday, what did you do?

A Well, I don't know whether it was August 10th, but during that week I got together with the developer with a view to seeing whether the proposal could be amended, and as you may recall from the record, I presented the results of those discussions to the meeting of August 13th.

Q Well, you were doing your best to expedite the matter?

A Well, I thought I was, yes.

Q Did at anytime you threaten to resign over this?

A No.

Q Did you discuss resigning?

A I don't think so.

Q Did it occur to you?

A I don't recall my private thoughts at that time.

Q I see, were you upset about this interference by the Attorney General?

A It did concern me, yes.

Q And what was your concern?

A Well, my concern was that I thought I had been acting in accordance with my responsibilities as Director of Planning, and I was concerned that a member of the Government felt otherwise.

Q Did you discuss this matter between August 9th and 13th with any member of the Council of the M.D. of Strathcona?

A I don't think I did.

2-B-6

L. O. Gertler - Gill Ex.

Q Mr. Adamson?

A No.

Q Do you of your own knowledge know whether Mr. Maynard or Mr. Hooke talked to any members of the Council of Strathcona before August 13th, 1954?

A No, I have no knowledge.

Q You have no knowledge of that. What was Mr. Holloway's role during this, he was what?

A I believe he was a member of the Planning Commission. There was a period during which he was Chairman of the Commission. I don't recall the specific dates of that, however.

Q Well, during the period 1951 to August 13th of 1954 Mr. Holloway was either a member or Chairman of the District Planning Commission?

A I think so.

Q And it was he who also on August 31st, 1953 made the application for Mr. Campbell, was it not?

A Yes.

Q How did you regard this?

A Well, it was a bit surprising. On the other hand, he was an Alberta Land Surveyor and he was entitled to make an application of that nature.

Q How did you consider it a bit surprising?

A Well, in the sense that he was a member of the Commission and would be involved in the consideration of the matter when it came before the Commission.

2-B-7

L. O. Gertler - Gill Ex.

Q He was also a senior Civil Servant of the Alberta Government?

A Yes. On the other hand, of course, his, by virtue of his, of him making the application the members of the Commission were quite aware that Mr. Holloway had made the application, the subdivision application.

Q So that a member of the Commission virtually became committed to a certain point of view concerning the application?

A It would appear so, yes.

Q And you thought so?

A Well, everything pointed to that, yes.

Q And do you know what the relationship was, if any, between Mr. Holloway and Mr. Hooke?

A No, I did not know in any precise way what the relationship was.

Q And what about Mr. Holloway and Mr. Campbell?

A I didn't know what the relationship was.

Q Did they appear to be friendly?

A I had no way of judging that at all.

Q Did you have anything to do with Campbelltown Heights, the land immediately south of the Wye Road and immediately south of the South West Quarter of Section 27, Blocks 15 and 16, pointing to the colored map, Exhibit 172?

A Are you referring to a specific subdivision application?

Q Well, were you aware of any of those subdivision applications?

A Well, I know that we did consider some subdivision applications in that locality but without a specific reference I

2-B-8

L. O. Gertler - Gill Ex.

A (Cont.) cannot tell you whether this was one of them.

Q I just wondered if you found anything unusual in any of those applications?

A Well, during the course of my tenure I don't recall anything particularly unusual about them. We had, we had a very definite policy on small holding subdivision in the district, very definite standards of small holding subdivisions in the district.

Q And that policy was?

A Well, I don't know if I can recall it all, but we had certain criteria concerning location, the size of the lots, the form of the layout, and this kind of thing; and any application of that nature that came before me had to meet those requirements.

Q Do you remember if there was a minimum of a twenty acre specification or not?

A Oh, I don't believe there was a minimum twenty acre specification, no.

Q And do you recall anything unusual about the subdivision of an area called Whitecroft?

A No, I don't.

Q Or West Whitecroft?

A No.

Q Or a cemetery in that area?

A No.

Q You had nothing to do with those that you recall?

A I cannot recall.

2-B-9

L. O. Gertler - Gill Ex.
- Crawford Ex.

Q Thank you, Mr. Gertler.

A Right.

THE COMMISSIONER: Mr. Bowen?

MR. BOWEN: No questions.

THE COMMISSIONER: Mr. Crawford?

MR. CRAWFORD EXAMINES THE WITNESS:

Q Mr. Gertler, have you looked at the Terms of Reference of this Inquiry?

A No.

Q If I may then I will just read the material portion. This is an Inquiry to inquire into this matter along with one other, and in these words, Mr. Gertler:

" ... whether or not The Honourable Alfred J. Hooke used or attempted to use his office as a member of the Executive Council of Alberta for the personal gain of himself, his friends or his business associates in conflict with his public duty."

Do you know anything that would bear on such an allegation that would have come to your attention as a result of Mr. Hooke's activities in respect to subdivisions in Sherwood Park?

A No. I think that my statement up to the present concerning my involvement in the consideration of this proposal is pretty complete and I have nothing to add in that respect.

Q Did you ever meet Mr. Hooke up until this time?

A I believe I probably met him at meetings of the Provincial Planning Advisory Board, and I met him at informal planning

2-B-10

L. O. Gertler - Crawford Ex.

A (Cont.) meetings.

Q Did he ever attend a meeting of the Regional Planning Commission while you were either an employee or the Director there?

A I don't recall that he did.

Q Do you know any other members of the Executive Council as it was then constituted; we know that in a way one could say you knew Mr. Maynard because he called you, did you know anybody else in the Cabinet?

A I had from time to time visited the offices of several Ministers on Commission business, such as the Minister of Highways and the Minister of Lands and Forest.

Q Did you visit Mr. Hooke's office on -

A No, I don't recall that I did. I had several times, of course, talked to the Deputy Minister, Mr. Judge, and later Mr. Morrison, but I don't recall visiting Mr. Hooke's office.

Q On such occasions when you would call on members of the Cabinet on Commission business, did you call on Mr. Maynard?

A I don't recall that I did, no.

Q Did you call on Mr. C. E. Gerhart?

A On one occasion I can recall, yes.

Q Did it have anything to do with Sherwood Park?

A I beg your pardon?

Q Did the call upon Mr. Gerhart have anything to do with Sherwood Park?

A No, no, it didn't.

Q Did you ever discuss Sherwood Park, the Sherwood Park

2-B-11

L. O. Gertler - Crawford Ex.

Q (Cont.) situation with Mr. Gerhart?

A No.

Q What would be the frequency, Mr. Gertler, of your discussions with Mr. John Campbell from the time you first met him?

A Well, during these periods that I have referred to when his proposal was under active consideration I saw him quite frequently in that we were at various stages involved in trying to get a meeting of minds between the Commission's requirements and the developer's requirements, so that at least on two occasions over, you know, the period, well, one, particularly after the September 1953 decision of the Commission I and my staff saw him frequently because we were trying to develop a plan and a layout which would, while maintaining the standards of the Commission, would also meet the requirements of the developer, so that I saw him frequently during that time; and then I saw him frequently in the week between August 9th and 13th for similar reasons.

Q Did Mr. Judge ever say to you that it made matters more difficult for his Minister, Mr. Gerhart, in dealing with Sherwood Park as a result of the fact that Mr. Hooke was personally involved there?

A I don't recall him saying that.

Q Did that subject or anything related to it ever come up between you and Mr. Judge?

A I can't recall that, no.

Q Would it be fair to say that John Campbell is more

2-B-12

L. O. Gertler - Crawford Ex.

Q (Cont.) importunate than most applicants, or is he an average one?

A Do you mean that he was more persistent, and so on?

Q Yes?

A Well, I think the record shows that he was persistent, yes.

Q In his persistence did he ever mention to you as a fact that the land that he was dealing with belonged to Mr. Hooke?

A I don't recall him making reference to that.

Q When Mr. Maynard telephoned you on the one occasion you have mentioned, was there any reference to Mr. Hooke?

A I don't recall that there was, but as I say my recollection of the precise words is certainly not clear.

Q Well, without remembering precise words, your testimony still is, I take it, that the name of "Hooke" did not come up to the best of your memory?

A Yes.

Q Did Mr. Campbell ever say to you that Mr. Hooke wanted any specific plan signed that you had anything to do with?

A No.

Q Did he ever say that Mr. Hooke wanted the project to go ahead, or words to that effect?

A No.

Q Did any member of the Municipal Council of Strathcona ever make such a statement to you?

A I don't think so.

Q In other words either that Mr. Hooke wanted a particular

2-B-13

L. O. Gertler - Crawford Ex.

Q (Cont.) plan approved or that he wanted the project to go ahead or say that he wanted the municipal district to support it?

A No. As you know, the municipality was pushing very hard, but I don't recall them ever saying that.

Q Do you know why the municipal district was pushing hard?

A Well, I felt that they were doing it, and I think some of their own expressions on this bear me out, they wanted to get some of the heat off, I guess, arising from the fact that they had a very favorable financial position as a result of the substantial industrial capital invested in their municipality, and they saw this as a way in which they would assume some of the financial responsibility arising out of industrial development.

Q Which member of the Council made that summary to you, do you remember?

A Well, I think there is a reference to this in several of the Minutes of the Commission. I think that it might be in, one reference, in the Minutes of the Executive Committee of August 13th, 1954.

Q Did Mr. Campbell ever convey to you an alleged unwillingness of Mr. Hooke to have his land subdivided?

A No.

Q He didn't say at any time that Mr. Hooke really preferred to farm it but was being pressured into subdividing it?

A No.

Q Do you know from your own personal knowledge if Mr. Campbell

2-B-14

L. O. Gertler - Crawford Ex.

Q (Cont.) ever made any statement to the Edmonton Regional Planning Commission, either at a properly called meeting or at an informal meeting, to the effect that the development should go ahead because of Mr. Hooke's interest?

A I have no knowledge of any such statement.

Q Did you find in your position that it was more difficult to exercise independent judgment on what should be done because there was a Minister of the Crown involved?

A I didn't take that into consideration at all.

Q You treated the matter the same as you would if anyone else had been involved?

A Yes.

Q And was that so even after your call from Mr. Maynard?

A Yes.

Q You did say that you felt that after the call from Mr. Maynard some concern on your part that a member of the Government should be disapproving, I believe you said that?

A Yes.

Q And this was a short lived thing then, I take it?

A Well, this bears no implication as to what position I took as, as Director of Planning. I continued to exercise my duties as I did before, and I think this is borne out by the Minutes of the subsequent meetings.

Q I don't doubt your having performed your duties, Mr. Gertler, the only question is whether or not it was made more difficult for you to do so by the involvement of a Cabinet Minister?

2-B-15

L. O. Gertler - Crawford Ex.

- A Well, I don't know whether objectively that was the case. I am just telling you that it did not affect any of my actions as Director of Planning.
- Q Now, in your conversation with Mr. Maynard did he ask you to change your mind?
- A Well, I must say again that I do not recall the exact words. I do recall that he was in strong terms critical of what I had done.
- Q How long was your conversation with Mr. Maynard that you refer to, Mr. Gertler?
- A I suppose about two minutes.
- Q About two minutes?
- A Yes, about two minutes.
- Q In being critical of you, was he angry?
- A I don't know, I don't know.
- Q Was there evidence of it in the sense that he raise his voice or anything like that in speaking to you?
- A Well, no, one cannot recall something like that twelve years later. I recall that he spoke in strong terms. I don't know whether he raised his voice or whether he expressed anger, but he was you might say severely critical of what I had done.
- Q Do you remember if he said that Mr. Campbell was present in his office when he called you?
- A No, I don't.

2-P-1

L.O. Gertler - Crawford Ex.
- Wright Ex.

Q MR. CRAWFORD: Those are all my questions Mr.
Gertler.

THE COMMISSIONER: Mr. Wright?

MR. WRIGHT EXAMINES THE WITNESS:

Q When did you become Director of the Edmonton District
Planning Commission Mr. Gertler?

A Well, I think it was in late summer or fall of 1952.

Q Yes. You didn't leave the employment there in 1957 because
of any unpleasantness relating to Sherwood Park, I take it?

A No I did not.

Q Would you have a look at Exhibit 187A please? It was
mentioned by Mr. Clement as being one of the ones you looked
at. Well, it doesn't matter, any copy will do. That is a
letter from Mr. Holloway to the Secretary-Treasurer of the
Municipal District of Strathcona in July, 1952. Can you
remember reading that yesterday?

A This was one of the things I scanned.

Q Just glance at it to make sure you recall it?

A Yes.

Q You will note the letter was evidently written on the
letterhead of the Civil Service Commission by Mr. Holloway?

A Yes.

Q Was that letter written with the approval or indeed knowledge
of you?

A No.

Q And yet you were the man that was working on these plans
at the time and you may have been Director of the Commission?

2-P-2

L.O. Gertler - Wright Ex.

A I don't believe I was Director of the Commission at the time.

Q I see, but at any rate, the staff at this time was working on the plans for Sherwood Park or Campbelltown rather, trying to draft up something?

A We were evaluating the proposal. We were not at that time involved.

Q Yes, that's quite true, that's quite true, yes but at any rate, it wasn't written with your knowledge or approval and, so far as you know, was it written with the knowledge or approval of the Commission?

A I don't believe it was referred to the Commission.

Q Yes. Why was the southwest quarter the one chosen for the first neighbourhood development?

A Well, I believe the controlling factor was that the water supply would come from the City of Edmonton by a pipe line and that this was the area that was closest to the water supply and it would make economic sense for that reason to develop it first.

Q And also it was the one, was it, that Mr. Campbell wanted to develop first?

A Well at that time, yes, certainly.

Q Now, you say that a general scheme was approved by the Edmonton District Planning Commission in February of 1954 and a particular subdivision plan at the same time. Now, apart from being objectionable for quite a number of reasons, the linen plans submitted by Mr. Campbell on the 9th of August,

2-P-3

L. O. Gertler - Wright Ex.

Q (cont.) 1954 -- perhaps I shouldn't have said apart from being objectionable in itself, another reason, streets too narrow, layouts wrong and so on, it was inconsistent with this general scheme or plan that had been approved earlier, was it not?

A I believe that was the case. As I recall the main problem was that it did not indicate how some of the general requirements of the townsite development would be met. It did not indicate how it would tie into a main road system and where a junior high school site would be located in relation to it and where the major shopping would occur and this sort of thing.

Q Yes, even for a preliminary plan it was a pretty poor effort, wasn't it?

A Well, as you see, our critique of it was quite extensive, we found it necessary to point out what we felt were a number of shortcomings.

Q Yes, well, I will just put my question again, even for a preliminary plan it was a pretty incompetent one you thought? Wouldn't you have thought so?

A Well, I did not have a very high opinion of it at that time.

Q Yes, well, you are a polite chap Mr. Gertler; but, there were obvious discrepancies such as the route of the main roads, the lack of a civic centre, adequate school facilities as well as recreation facilities, were there not?

A Yes.

Q But for a final plan it was ridiculous to ask you to approve

2-P-4

L. O. Gertler - Wright Ex.

Q (cont.) that off the bat, wasn't it? That was certainly your attitude?

A I felt it was not acceptable but, of course my position was, in a sense, a procedural one at that stage.

Q Yes, but as a planner trying to do your duty, there was just no question of signing this off the bat, was there, for all those reasons?

A Yes.

Q And didn't you tell Mr. Maynard that at the time he phoned?

A Oh, I probably did.

Q To that extent?

A I probably made some attempt to explain my position.

Q And yet he was critical in strong terms?

A Yes.

Q Of course, if you had signed the plan there would have been no criticism at all?

A I don't know.

Q Well, he was critical of you because you weren't signing the plan?

A Yes.

Q Thank you. Did Mr. Campbell ever indicate to you what the rush was to sign this thing?

A Well, something to this effect, it was stated at the meeting of the Executive Committee by the representatives of Strathcona and they stated that the developer for unstated financial reasons was very anxious to proceed.

Q Didn't mention anything about options running out?

2-P-5

L. O. Gertler - Wright Ex.

A No.

Q Now, later when Strathcona returned to the fold, the normal course for further plans of subdivision would have been through the Edmonton District Planning Commission again?

A Yes.

Q In fact, that wasn't so, was it, except that some of them might have been referred back to you by the Provincial Planning Advisory Board for your opinion and comment?

A Do you mean after the municipality withdrew from the Commission?

Q And then it returned?

A Yes.

Q Nevertheless, because the Provincial Planning Advisory Board had been the one that approved the plan, that the plan had finally went into effect and the subdivisions that first went into effect, a decision was made, was it not, to continue that practice? Do you remember that?

A Which practice?

Q The practice of submitting things for approval straight to the Provincial Planning Advisory Board?

A Oh I don't recall that.

Q You don't recall that. Yes, I just realized that this decision was in fact taken shortly after you left Mr. Gertler. At any rate, while you were still there and after the Commission had jurisdiction on the matter again, then these plans started coming back to you, such as they were, for approval?

2-P-6

L. O. Gertler - Wright Ex.

A I assume so.

Q Do you have any specific memory or knowledge of it?

A No I don't.

Q You can't remember whether they were running into trouble again with regard to subdivision regulations or planning requirements, eh?

A No I don't recall that.

Q You agreed with my learned friend, at least, you said that Mr. Campbell was persistent in his endeavours?

A Yes.

Q Did he get any help to your knowledge or attempted help in his endeavours other than from Mr. Maynard?

A I have no knowledge.

Q Whitecroft is a subdivision to the south of Sherwood Park and I am not exactly sure where it is but it could be here or just off the map, can you remember any subdivision of that area?

A Yes I do recall there were applications for small holdings.

Q Yes. Well, was this consistent with the district planning?

A Yes, it could well have been consistent. We had in fact, one can probably obtain if you have not already, a copy of the standards for small holding development adopted by the Planning Commission.

Q Yes?

A And I believe that this application, those applications that were approved in that area, were entirely in conformance with those standards.

2-P-7

L. O. Gertler - Wright Ex.

Q Yes, but were not those standards applicable to the B zone of your -- I don't know what the name was, at that time, rather than the A?

A I can't recall that. There certainly were distinctions, certainly location was one of the standards.

Q Yes. Could you have small holdings development in the sense of country residences in this A zone green belt or whatever it is you mentioned?

A Well --

Q Perhaps it is a little unfair to ask you to remember?

A Well I do know that in metropolitan regulations adopted by the Commission in 1956 or '57 a distinction was made between small holdings which were considered agricultural small holdings which I believe had a minimum site of three acres and what was called subdivision for permanent country residences which had a minimum site of one acre and both could be approved at certain specified locations but, I don't recall --

Q Where those locations were with reference to Sherwood Park?

A No.

Q Thank you. Now, going back to August of 1954 did you apprise the staff of what had happened or some of them at any rate? I am talking about this interference or intervention?

A I think that at the time it just happened I think one or two of my senior staff were in the office.

Q Yes, and was it not considered a rather upsetting thing to

2-P-8

L. O. Gertler - Wright Ex.
- Maynard Ex.

Q (cont.) happen?

A Well, I have given some indication of it, yes.

Q You have given your indication it was but by the staff generally or those that knew of it?

A I think their reaction was pretty much like my own.

Q And would it be fair to say that this was extraordinary, something like this had never happened before nor did it happen afterwards while you were there?

A In that sense it was extraordinary, yes.

Q Yes, thank you.

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD EXAMINES THE WITNESS:

Q Mr. Gertler, let's take the last question first. I must confess I do not recall the circumstances but your memory is undoubtedly better than mine.

MR. GILL: Mr. Commissioner, I am again going to have to, with great respect, put this on the record that my learned friend finds himself in a very infidious position with is embarrassing at least to me as counsel and I have no doubt that it is embarrassing to this Commission. If he wishes to give evidence there is a proper place to do it and, I make that comment for the record.

THE COMMISSIONER: Well, Mr. Maynard hasn't given any evidence yet.

MR. GILL: Well I hope he won't Mr. Commissioner

MR. MAYNARD: I have already stated that the

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L. O. Gertler - Maynard Ex.

MR. MAYNARD: (cont.) memory of the witness is undoubtedly better than mine Mr. Commissioner.

MR. GILL: Mr. Maynard's memory has been proved wrong at least twice already Mr. Commissioner.

MR. MAYNARD: And I have stated quite frankly Mr. Commissioner that the memory of the witness could very well be better than mine. I am not disputing it. I don't know what my friend Mr. Gill is getting all excited about.

MR. GILL: I am not excited yet.

MR. MAYNARD: It sounds like it.

Q MR. MAYNARD: Mr. Gertler, I would like to take you back to this conversation that you say you had with me in 1954. Now, you indicated it was a two minute conversation, that is what you have stated?

A Yes.

Q Now, this is a long ways back and I don't know how you can relate two minutes or five minutes or ten minutes but I am prepared to accept the two minute statement. Are you prepared to say Mr. Gertler that if I called you on this occasion, before becoming critical I would first of all seek information from you as to what had happened?

A Well I don't recall very much discussion along those lines. I meant to convey to the Court that it was a brief discussion.

Q Yes, would the discussion follow receipt of information from you?

A Do you mean by some other means?

Q No, if we had a telephone conversation --

2-P-10

L. O. Gertler - Maynard Ex.

A Yes?

Q -- I just cannot visualize any person immediately becoming critical without asking for information. Now, all I am asking is was there a request for certain information from you before any critical remarks were made?

A Well I don't recall really whether that request was made. I do recall that most of our discussion concerned my action on the Campbell application. I don't recall the sequence of our discussion.

Q There could have been some request for information and you just can't recall it?

A That's correct.

Q Now you say there were two senior members of your staff present at the time, do you recall who they were?

A I think they were present. One was Norman Giffen and one was Frank Marlyn.

Q But you are still/^{not}too sure as to whether they were the two?

A Oh, I am sure they knew about the call because they were either present at that time or I had discussed it with them shortly after.

Q Now, were you Director of The Edmonton District Planning Commission at the time?

A Yes.

Q And in your capacity as Director, were you reporting to any particular Minister in the Government?

A No, I don't believe I was at the time.

Q What Department of Government had the most contact with you

2-P-11

L. O. Gertler - Maynard Ex.

Q (cont.) at that time?

A Municipal Affairs.

Q And did you have much contact with the Department of Highways?

A We had some contact with the Department of Highways, yes.

Q But most of your discussions were with the Minister of Municipal Affairs?

A With the staff of that Department.

Q Yes. Did you ever report this conversation or this interference to anybody connected with the Municipal District of Strathcona?

A I don't recall.

Q Did you ever report the interference to the Minister of Municipal Affairs?

A I don't recall.

Q Outside of these two gentlemen you mentioned, Mr. Giffen and Mr. Marlyn, you reported it to no one?

A I think that's the case, yes.

Q I take it you were not too much concerned about the interference?

A Well, I was not concerned in the sense that I would not permit it to affect my actions as Director of Planning.

Q As a matter of fact, would it be fair to say that the reaction of yourself and the two members of your staff would be, well, why doesn't he mind his own business and you carried on with your business?

2-P-12

L. O. Gertler - Maynard Ex.

A I suppose that is reasonable.

Q In effect, that is what happened, you carried on with your own business and disregarded any interference?

A Yes.

Q Now, I take you back to the meeting of February 3rd, 1954 and I think there is just a little confusion left. At this meeting I think you indicated that there was a subdivision plan of part of the southwest quarter approved?

A Yes. Now, what was approved was not a specific application, it was a specific subdivision layout which, because it was approved by the Commission, could become the basis of an official application by the developer.

Q That is what I wanted to clear up. There were no linens prepared on the February 3rd, '54 meeting for approval by the Commission and there was no formal application for the approval of a specific project that could be signed by the Commission at that time?

A No.

Q In other words, all that was approved was a tentative plan of subdivision at that time?

A Well in a strict sense, in the sense of the Provincial terminology, it was not a tentative subdivision plan, it was a detailed layout that had been worked out between the staff and the developer and as such, since it had Commission's approval, the understanding was that this would be followed by a formal application on the part of the developer consistent with that approved plan.

2-P-13

L. O. Gertler - Maynard Ex.

Q Now, do you recall that this layout, you gave it another word, detail layout --

A Oh yes.

Q -- consisted only of a part of the southwest quarter of Section 27 or the whole of Section 27?

A No, the detail layout was part of the southwest.

Q Fine, the detail layout was part of the southwest and then there was a general outline?

A Yes.

Q Of the entire section?

A Yes.

Q That was discussed at the same time?

A Yes and I believe half of Section 34.

2-M-1

L. O. Gertler - Maynard Ex.

Q Oh, it extended beyond Section 34?

A Yes.

Q -- 27?

A Yes, the general concept, as I recall, included the South half of Section 34, which was north of Section 27.

Q And this goes back, now, to February 1954?

A Yes.

Q Now, when you come to August, 1954, you indicated in a question by Mr. Clement that the detailed outline that had been approved in February of 1954 did not correspond -- I'm sorry -- that the linens submitted in August of 1954 did not conform with the detailed outline of part of the Southwest quarter that had been discussed and approved in February of 1954. Now, is that statement correct? That's what I understood you to say to my friend Mr. Clement.

A It did not meet the standards which the Commission had embodied in the subdivision plan approved in the earlier Commission meeting.

Q Well, that's just what I am trying to get at. As I recall your evidence-in-chief -- the plan, the linen plans submitted in August of '54 did not correspond to the detailed outline plan for the part of the Southwest quarter that had been approved tentatively by the Commission in February of '54.

A Yes.

Q Was the general outline plan that had been approved in February of '54 still before the Commission in August of '54?

2-M-2

L. O. Gertler - Maynard Ex.

A I don't quite get the sense of your question.

Q Well, you have an outline plan that was submitted to you in February of 1954 and approved by the Commission -- a general outline plan?

A Yes.

Q For the whole of Section 27 and part of Section 34.

A Yes.

Q On the basis of this general outline plan you had approved a detailed outline plan of part of Section 27.

A Yes.

Q The linen plans submitted in August of 1954 were at variance with the detailed outline plan of part of Section 27 that you had approved?

A Yes.

Q In February '54. Is it fair also to say that at this time you also had before you still the general outline plan that had been submitted in February '54?

A Well, the general outline plan had been adopted by the Commission.

Q Yes, and in August of '54 the linen plans submitted not only were at variance with the detailed plan of subdivision of part of the Southwest quarter of 27, but they were also at variance with the general outline plan?

A Well, there was no general outline plan in that application.

Q Well, not in August '54, but you had one in February, '54, didn't you?

A Yes, but the new plan did not deal with what we considered

2-M-3

L. O. Gertler - Maynard Ex.

A (Cont.) to be essential general matters.

Q Right.

A Just didn't deal with general matters.

Q The new plan of August '54 only dealt with part of the Southwest quarter of 27?

A Yes.

Q And nothing else. There was some discussion as to the reason why Strathcona withdrew from the Commission in September '54. Were you familiar with the attempt that had been made by the City of Edmonton to annex the industrial areas in the Municipal District of Strathcona?

A Well, I recall that this was an issue for several years, but I don't recall when this action, or if any action was actually taken at that time.

Q Well, you recall it was in issue and it was actively discussed?

A I think there was discussion at that time, yes.

Q And were you --- of course, you must be familiar with the fact that the City of Edmonton was endeavouring by some means or other to annex the industrial area?

A I know they were concerned about that.

Q Yes, and the Municipal District of Strathcona was also very much concerned about losing the industrial area?

A I would assume so.

Q And in the discussions that you held with the municipal officials, or at the Edmonton District Planning Commission, was this concern never expressed to you by the municipal

2-M-4

L. O. Gertler - Maynard Ex.

Q (Cont.) officials?

A No, it was not expressed.

Q You have seen nothing in the Minutes referring to the fact that the Municipal District did not wish to lose the industrial area?

A Well, on that point I'm not absolutely certain, but I thought your question was with reference to concern about Edmonton's action.

Q Yes, but my question related to the concern of the municipality, municipal officials, rather than the concern of the Edmonton officials. My question was: did you not have knowledge of the fact that the municipal officials were very much concerned about losing the industrial area?

A I --- certainly I -- you can put it either way -- I don't know -- the fact was I knew that this question of industrial assessments was a matter of concern, both to the municipality and to the City of Edmonton.

Q As a matter of fact, it was a real bone of contention between the two of them; is not that right?

A I think it certainly was a major issue.

Q And even before you became director of the Commission -- I don't know whether you would have knowledge of this --- I shall ask you: did you have knowledge of the fact that Strathcona was very much concerned about setting up some kind of facilities, either by way of a dormitory town or satellite town, for the purpose of having an argument to justify retaining the industrial area within its boundary?

2-M-5

L. O. Gertler - Maynard Ex.

A No, I wasn't aware.

Q Not at that time. Did you become aware of that later when you became director?

A No, the first indication was the application by Mr. Campbell.

Q Yes, and this application was actively supported by the Municipal District?

A Yes.

Q And was not one of the grounds for the support throughout the years the fact that it wanted to use this as an argument to prevent the annexation by the City of Edmonton of the industrial area?

A I think that this was probably part of their strategy, but I don't know for a fact.

Q They never discussed this specifically with you?

A No, they didn't.

Q Of course, you being a director of the Edmonton District Planning Commission, you were in a sort of neutral position?

A Yes.

Q Between the City -- .

A Right.

Q -- and the Municipal District?

A Right, yes.

Q And this pressure that was brought to bear by the municipality was also persistent throughout the time that you were connected with the Edmonton District Commission for the development of a townsite?

A It was persistent in the sense that I believe on each occasion

2-M-6

L. O. Gertler - Maynard Ex.

A (Cont.) that the issue was raised the municipality supported the application.

Q And did they go beyond supporting the application and show some restlessness over the delays in what was taking place -- or what was not taking place?

A Well, at the executive committee meeting of August 13th, 1954, --.

THE COMMISSIONER: Will you speak up a little bit, please?

A At the executive committee meeting of August 13th, 1954, they did in fact state this -- or -- pardon me -- I'm sorry -- this was the meeting of August 24th, the special meeting, after that executive meeting, and they had initiated withdrawal from the Commission; offering as explanation for their action they stated it was due to their impatience concerning the approval of that particular development.

Q As a matter of fact did not another municipality also withdraw from the Commission during -- while you were there? Sturgeon?

A I think -- I think so -- yes.

Q And there was quite some disagreement between the rural body and the City of Edmonton, and the urban areas, on the Commission?

A We did have this kind of tension, yes, there -- in the early stages of the Commission, yes.

Q And this was the only commission that was in existence in the Province at that time?

A I believe there was one in Calgary.

Q At the same time or did it come later?

A Or just a little bit later -- it would be practically

2-M-7

L. O. Gertler - Maynard Ex.

A (Cont.) simultaneous.

Q My information is that one of the concerns the Commission had about the withdrawal was the fact that this Commission was set up as a test for future commissions in the Province, and if this one broke down, well, then, there would be little opportunity or little chance of setting up another. Now, is that correct?

A I don't recall this as a major concern, certainly. Circumstances suggest that it might have been a concern, but I don't recall this as something that was discussed.

Q Well, the date of the establishment of the Calgary Commission can be ascertained; and, of course, along with the pressure you got from Strathcona, you also received a great deal of pressure from Mr. Campbell.

A Yes.

Q Now, Mr. Gertler, throughout your stage with the Commission, was it the common practice for promoters and developers -- or promoters to bring pressure to bear for their projects?

A It was not -- not uncommon. Developers exhibited the whole range of human characteristics.

Q And some, of course, would appear before the Commission on several occasions in order to promote their projects and obtain approval?

A Yes, some did.

Q And they were quite as insistent as Mr. Campbell was?

A Yes; I guess this is the longest case we had.

Q Oh -- well, of course the pressure lasted longer because it

2-M-8

L. O. Gertler - Maynard Ex.

Q (Cont.) took longer.

A Yes.

Q Well, would you not have a pretty dim view, Mr. Gertler, of a promoter or developer who did not press strongly for his project?

A I really had and have no opinions on this.

Q Fine. There was a slight discussion about the green belt area.

A M-hm.

Q Do you recall when the first green belt area was ever established, formally?

A I don't recall the date.

Q Was it established after you became a member of the Commission?

A Well, I think it probably was, because it was only a year after the Commission's operation -- two years after the Commission's operation -- so I think probably this kind of action by the Commission took place then, but I don't recall the date.

Q Now, the question of a green belt had been alive for some time, not only in this area, but in other areas around the City of Edmonton.

A Yes.

Q And it had been discussed for some years before?

A Yes.

Q But no concrete action had been taken at any time until you became a member of the Commission, and it was some years

2-M-9

L. O. Gertler - Maynard Ex.

Q (Cont.) after that?

A Well, I can't -- I'm not absolutely -- .

Q No, but to your knowledge there was no green belt formally established before you came onto the Commission?

A No, I just don't know the date when this was established.

Q And your recollection -- ?

A I just don't know.

Q You just don't know. Now, after the Municipal District of Strathcona returned to the Edmonton District Planning Commission you were still a member of the Commission at that time?

A I was still director.

Q Yes, and you remained a director for about a year after this?

A About a year.

Q Were additional subdivision plans proposed for Campbelltown after the Commission -- after Strathcona returned to the Commission and while you were still on the Commission?

A I don't recall if there were.

Q You don't recall?

A No.

Q If any plans had been submitted to the Commission during this period of time, and approved by the Commission, they would bear the stamp of the Commission?

A Yes, if they had been approved.

Q Otherwise, if they were not, or were approved by some other body, they would bear the stamp of the other body?

A I guess so.

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L. O. Gertler - Maynard Ex.
- Clement Ex.

Q I think you have already told us --- but I would just like to have it confirmed, on the occasion that you had this telephone conversation with me concerning the linen plans submitted by Mr. Campbell, did I ever pressure you on this occasion to support the plans because Mr. Hooke was involved?

A I don't recall any reference about that.

Q Did Mr. Hooke on any occasion ever ask you to support the plans of Campbelltown because he had land in it?

A No.

Q Thank you.

THE COMMISSIONER: Mr. Clement?

MR. CLEMENT EXAMINES WITNESS:

Q Mr. Gertler, just one little point in connection with the telephone call that you've spoken about from Mr. Maynard. If I understood you correctly that was about August 9th.

A Yes, it was on the day that Mr. Campbell visited my office.

Q Your Minister of Municipal Affairs at that time was Mr. Gerhart, was it not?

A Well, I would really have to appeal to you on that point; I'm not sure. I don't recall who it was.

Q It is my recollection of the evidence -- perhaps the then Attorney General -- if Mr. Gill doesn't object -- could confirm that?

MR. GILL: Well, I do object. There is a place for him to give this evidence, not from behind counsel table.

Q MR. CLEMENT: I will state my recollection of the evidence, then, Mr. Gertler, that Mr. Gerhart was at that time

2-M-11

L. O. Gertler - Clement Ex.

Q (Cont.) Minister of Municipal Affairs, succeeded by Mr. Hinman, and in 1955 -- and then by Mr. Hooke.

A I see.

Q I was wondering if by any chance Mr. Maynard phoned you on that occasion in August -- on August 9th, 1954, because he was then acting Minister of Municipal Affairs in the absence of Mr. Gerhart. Was there any indication that that was the reason for his call, and that he might have been concerned then with the attitude of the municipality?

A Well, I don't recall any reference to that fact.

Q Then, you have no real recollection -- you only have a lasting impression?

A Yes.

Q You have examined Exhibit 188A, which was signed by Mr. Maynard a few days subsequently?

A Yes.

Q And the fact that he was then acting as deputy of Municipal Affairs, made me wonder whether on that August 9th -- .

A I see.

Q -- he had not been concerned in the same way -- .

A M-hm.

Q -- that he was concerned when he signed the recommendation of August 16th -- but you have no recollection?

A No, I don't recall any reference to that.

Q Thank you, sir.

THE COMMISSIONER: Thank you, Mr. Clement. Mr. Gertler,
I guess this concludes your appearance here before the

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L. O. Gertler - Clement Ex.
- Wright Ex.

THE COMMISSIONER: (Cont.) Commission. I wish to thank you very much for coming here from Waterloo, Ontario, voluntarily, to assist this Commission in the inquiry, and you are now excused.

MR. WRIGHT: My Lord, I have just thought of one question -- possibly quite an important point with reference to Mr. Gertler's evidence -- and if I might just catch him before -- .

THE COMMISSIONER: Certainly.

MR. WRIGHT EXAMINES WITNESS:

Q You said that when you went to that meeting in February of 1954, a general proposal was considered and approved, and as well a subdivision plan for the first neighborhood. Now, are these the Minutes of that meeting that are to be found in Exhibit 168?

A Yes, I believe I did look at that exhibit.

Q Yes, at page -- well, there is no page -- it's the Minutes of the meeting of February 3rd, and would it be true to say that what was actually approved at that meeting was what we find referred to in the very last paragraph of the Minutes?

A Yes.

Q And that reads:

"Mr. Moyer moved that the layout of the subdivision and sketch of the neighborhood unit as proposed and displayed by the technical staff, be accepted by the Commission. This motion was seconded by Mr. Schrader and upon being put to the meeting was carried."

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L. O. Gertler - Wright Ex.

Q (Cont.) There is no actual mention of this -- of this overall plan in that motion, is there?

A That is true.

Q But I think your reference to that may be explained by an earlier mention in the Minutes of a working agreement which you had appeared to have come to with Mr. Holloway, that his development would follow along certain lines. Might this be the -- would this be where the general plan comes in?

A Well, without --- without closer examination of the record I would have to say that the action of the Commission at that time governed the neighborhood layout only, but I would like to qualify this by my own interpretation, knowing the style of the work of the Commission -- the neighborhood plan was not presented to the Commission as an isolated entity -- .

Q Yes.

A -- it was presented as something that fitted in -- .

Q Yes.

A -- to a development concept.

Q Yes, I see --.

A And I made the presumption that in that approval that they were also approving sort of the basic framework.

Q Fine. There was formal approval only of that neighborhood plan, but they had by implication and attitude approved your general scheme of layout?

A Yes.

Q That would be fair enough.

A Yes.

Q Thank you.

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L. O. Gertler - Maynard Ex.

THE COMMISSIONER: Any other counsel any questions?

MR. GILL: No, thank you, Mr. Commissioner.

THE COMMISSIONER: You are released, Mr. Gertler --
thank you.

MR. MAYNARD: Mr. Commissioner -- ?

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD: If we are going to adjourn I might
just read one aspect of these Minutes here that may or may
not be relevant. I don't know if we should keep Mr. Gertler
for a few minutes, but if I can just be allowed one minute
before we adjourn, I think I can straighten it up --.

THE COMMISSIONER: Oh, yes, certainly, certainly.

MR. MAYNARD EXAMINES WITNESS:

Q Could I have Exhibit 168, please? Mr. Gertler, I am
reading from the Minutes, and I haven't read this yet and I
will not read it all because it is rather a lengthy affair,
but I think we might follow the matter as I go along:

"Tentative plans" -- this is page 3 of the Minutes of the
meeting of February 3rd, 1954, Exhibit 168 --- "

"Mr. Marlyn, when asked to explain the proposed layout
for the townsite, as suggested by the technical staff,
mentioned that the tentative plan originally forwarded
with the application was found to be rather inadequate.
In the first place it dealt solely with Section 27 and
did not include the South half of 34, which he
understands from the developer is intended to be
included in the residential area. This, of course,

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L. O. Gertler - Maynard Ex.

Q (Cont.) tends to throw the original plan off balance. Owing probably to a lack of time, certain essential factors appear to have been overlooked, such as: standards for school requirements, the nature of the terrain, etc. It had therefore been decided to re-design the entire layout, which he explained as follows by means of a chart."

Then follows various aspects that were pointed out.

"An effort has been made to adapt these principles to the terrain itself. There is a main road running north and south, west of the town, connecting Highways 14 and 16, passing between the land proposed for industrial use and the residential area.

Mr. Marlyn then showed a tentative sketch of the southwest neighborhood unit which will probably be the first to be developed as it will be closest to the requisite services. This unit contains 220 acres and will carry a population of 3300 to 3400."

Now, obviously there were two plans submitted at this meeting of February 4th: one was the outline of the whole of Section 27, plus the South half of 34, that had been submitted by Mr. Marlyn, and the other one was the subdivision of plans -- also submitted by Mr. Marlyn -- of a part of the Southwest neighborhood.

THE COMMISSIONER:

Would you make your answer audible
SUPREME COURT REPORTERS
EDMONTON, ALBERTA

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L. O. Gertler - Maynard Ex.

THE COMMISSIONER: (Cont.) so the Reporter can get an answer down?

Q MR. MAYNARD: Your answer is yes?

A Yes.

Q Right -- I'm sorry -- the stenographer didn't get the nod of the head. Now, Mr. Marlyn ---- I'm sorry. Mr. Gertler, before a subdivision plan can be approved there must be general approval to a general layout plan; is that correct?

A Well, the Commission was taking this position with respect to this major development. It wasn't always with every subdivision application that came before the Commission.

Q Yes, but with this development that is the position you took?

A Yes.

Q Otherwise, if you approved of the subdivision plan here without having some overall general plan, you could get into quite a sprawling area?

A Yes.

Q Now, although the Minutes as indicated by my good friend refer specifically to the approval of only the subdivision, tentative plan for the subdivision of the Southwest quarter, this was in the general framework of the overall plan that was referred to earlier in the Minutes by Mr. Marlyn; is that correct?

A Yes.

Q Fine, thank you.

THE COMMISSIONER: Well, I guess --. Are there any other counsel have any other questions? You are released, Mr. Gertler. Oh, Mr. Wright?

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L. O. Gertler - Maynard Ex.

MR. WRIGHT:

I'm very, very sorry, my Lord, --

but this plan was not the one that came into effect in practice, the one that came into effect in practice was quite different, wasn't it, Mr. Gertler?

A That is my understanding.

MR. MAYNARD:

Oh, ultimately, of course, yes.

THE COMMISSIONER:

Now, are we all through? You are released.

A Thank you, my Lord.

(Adjourned at 11:20 a.m.)

3-B-1

Discussion re procedure

MR. BOWEN: My Lord, I wonder before we go to the next witness if I may interrupt for a moment.

I gather that the curtain has rung down on act one, sir, in that the Sherwood Park witnesses have been called.

MR. CLEMENT: No, that is not quite correct, sir.

I am sorry that you might have been misled by this rather disjointed way the Hearing is going so far. There are some, there is some additional evidence to come forward.

MR. BOWEN: There may be a few other witnesses, but my point is this, that I notice according to the order of witnesses that the learned Commission counsel has set out that, different from the first one he set out, it is now proposed to call Mr. Hooke at the end of all of the aspects, of the topics which are dealing with him. Now, it is my feeling, sir, and I am submitting this for your consideration, and perhaps inviting comment from other counsel, that it would be more convenient for everyone concerned if Mr. Hooke were called at the end or the conclusion of each topic. I know that Mr. Clement has given this some serious consideration and has obviously come to a different conclusion. My reasoning is that it would give counsel a better opportunity to examine Mr. Hooke at such time as he was available at the end of each topic. It would also, and if the length of the cross-examination to date is any indication of it, it would also get away from him being in the stand for probably a week at the conclusion of every topic, sir, of all of the topics. I

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Discussion re procedure

MR. BOWEN: (Cont.) would like your consideration of this, Mr. Commissioner, and perhaps other counsel.

THE COMMISSIONER: Yes, would any other counsel like at this time to make a submission, to state their position on this, or would you prefer tomorrow morning after you have considered your position?

MR. GILL: I think I can tell the Commission my position at the moment. I concur in my friend's application. I think it will expedite matters and shorten the cross-examination of Mr. Hooke.

THE COMMISSIONER: Mr. Crawford?

MR. CRAWFORD: My position would be, Mr. Commissioner, that it does not make a bit of difference to me.

THE COMMISSIONER: I think, Mr. Steer, that you are not concerned with this aspect of it?

MR. STEER: No sir.

THE COMMISSIONER: I will hear from Mr. Maynard and then -

MR. CLEMENT: Perhaps it would be just as well, sir, if I, since Mr. Bowen referred to the course of procedure which I have adopted, if I make a statement in that respect. Before I prepared an Order of Business for this Inquiry I had given consideration to the position of Mr. Hooke and Mr. Hinman, the position that Mr. Hooke and Mr. Hinman would be in at the conclusion of their respective areas of inquiry, and in consultation with one who is more experienced by far in these matters than I am, I came to the conclusion that the proper way of handling that aspect would be to have Mr.

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Discussion re procedure

MR. CLEMENT: (Cont.) Hooke in this case called at the conclusion of all of the testimony that he had to face; and when I prepared the initial agenda I put down Mr. Hooke's name at the end of each individual topic which appeared to be coming before the Commission to indicate that he would be called as far as the Commission was concerned to answer questions relating to that particular topic, and at this stage I had not asked Mr. Hooke's counsel whether that course would be agreeable to him, namely giving his evidence piecemeal or at the conclusion of the whole of the aspects of the inquiry into Mr. Hooke. This, of course, this latter, is more in conformity with Court practice where, let us say, a defendant does not get up to answer each point that the plaintiffs make during the course of the trial; the plaintiff's case goes in and the defendant then has his opportunity to meet it. I was told by Mr. Maynard that Mr. Hooke would prefer to deal with all matters in each area rather than coming back at indeterminate times throughout the Hearing, and as I considered that to be a right of choice of Mr. Hooke I prepared this current agenda on that footing.

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD: Mr. Commissioner, had it been possible to segregate each individual item of inquiry separately and distinctly with no confusion and no overlapping there might be some justification for the request made by Mr. Bowen, but

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Discussion re procedure.

MR. MAYNARD: (Cont.) it is quite obvious as we have proceeded that there has been overlapping. Taking the case of Sherwood Park, we have already gone through Ideal Homes to some extent, we have had Minutes produced, we have had financial statements produced, we have had the evidence of Mr. Combs, and it has not been possible to separate them. Capilano has been mentioned two or three times without having been investigated thoroughly as yet. We have also had evidence concerning the Treasury Branch at Rocky Mountain House, the Treasury Branch problem. We have had the North West Trust and there has been such an intermingling of evidence so far that I feel, Mr. Commissioner, that the best way to handle Mr. Hooke is to complete all the evidence we have to put in and then give him the opportunity of coming forward and dealing with everything at once. It would be the most simple manner, it would also give counsel far better opportunity to be able to interrelate anything they may wish to interrelate, such as Ideal Homes and Sherwood Park, which is bound to be interrelated in argument in any event, than if he were to come at different times. If we bring him in separately now we will undoubtedly have overlapping which will lengthen the Inquiry, and I feel that we should wait until everything else is in and then Mr. Hooke can deal with everything.

THE COMMISSIONER: Any other counsel wish to comment.

Mr. Wright, I had overlooked you?

MR. WRIGHT: Yes. I think I agree with my learned

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Discussion re procedure.

MR. WRIGHT: (Cont.) friend Mr. Maynard but for somewhat different reasons, which I will keep to myself.

THE COMMISSIONER: Well, has anybody any other comments?

MR. BOWEN: I may say, sir -

THE COMMISSIONER: Yes, Mr. Bowen?

MR. BOWEN: - that my great fear is that, in spite of the intelligence that there is present here, that we will lose the thread of this matter, that very pertinent points which might be brought out at the end of each topic were Mr. Hooke to appear, we will lose sight of these in the end result; and I should like to comment on Mr. Maynard's thoughts, that it could be done better at the end because of the inter-relation of topics. Now, I think to date the learned Commission counsel has been very careful to produce certain witnesses, sir, for a certain topic and make it quite clear that that witness will be produced again for another topic, and I think the same basis should apply to Mr. Hooke. I cannot see that he should be in a special position on this, and I do not agree certainly that he is a defendant. This is an Inquiry, sir, there are allegations perhaps, but the idea of him being a defendant seems very strange to me. Consequently I feel quite strongly that he should be heard at the end of each topic, and counsel, I may say, have been very good with other witnesses to stick to the topic that is under consideration, and then have another go at them, at that witness on another topic later.

THE COMMISSIONER: Any other counsel?

3-B-6

Discussion re procedure.

THE COMMISSIONER: (Cont.) Well, it seems to me that on the evidence that has been adduced so far that there appears to be considerable inter-relation, certainly indications of some inter-relation with respect to Ideal Homes and Sherwood Park, particularly in the evidence given by the first witness, Combs. There seems to be a relationship there between Sherwood Park and Ideal Homes; and I understand that the evidence with respect to Ideal Homes is related to, in some way, to the City of Edmonton, am I correct in that?

MR. CLEMENT: That is a major aspect.

THE COMMISSIONER: Can I presume some relationship between Ideal Homes and Dr. Allard, I am not aware of any relationship, but is there, I am not sure?

MR. MAYNARD: I don't know of any but I would not discount it.

THE COMMISSIONER: No. In other words, it seems to me, Mr. Steer has probably something to say, but it seems to me from the background, from the documentary evidence brought in, that has gone in here, all these corporate records and the different and various companies referred to and the references to those various corporate bodies by different witnesses, that there seems to me to be an inter-relationship that would be hard to compartmentalize in the Inquiry, along the lines proposed by Mr. Bowen, and while, of course, this is an Inquiry and not a Court of law, it seems to me that the general practice, Court practice, is to have, for a defendant in an action, of course, to bring in his evidence

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Discussion re procedure.

THE COMMISSIONER: (Cont.) at the conclusion of all the evidence adverse to him, and while we are not in the same adversary position here it seems to me that there is sufficient resemblance to Court practice that the usual Court practice and procedure is the natural procedure to follow in the producing of the evidence, so that I am going to dismiss your application, Mr. Bowen, and proceed on the basis suggested by Commission counsel and have Mr. Hooke appear at the conclusion of all of the other evidence.

Now, Mr. Clement?

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Discussion Re Procedure

MR. CLEMENT: Well sir, I wish to call Mr. Wilson in relation to the topic Mr. Gertler's evidence interrupted. For the information of counsel -- of course, Mr. Gertler's evidence related to Sherwood Park and there are additional witnesses to come forward in connection with Sherwood Park before I will have presented all the evidence that I know of that is available on that particular topic. I will expect to produce some of that evidence tomorrow sir, still in relation to Sherwood Park and possibly complete it on Tuesday.

Now, by reason of his unavoidably disjointed matters, I am calling Mr. Wilson, in connection with the aspect of Mr. Hooke's relationship with Dr. Allard and on the particular subject of a lease by Mayfair Leaseholds Limited to the Crown of a building at one time known as the Northwestern Utilities Building on 104th Street. A notarial copy of that lease, dated April 28th, 1959 is in evidence as Exhibit 135 and a duplicate original of the lease was put on the table yesterday, I put it on the table again, sir.

THE COMMISSIONER: What Exhibit number is that, 135?

MR. CLEMENT: No, 35.

THE COMMISSIONER: 35, yes.

MR. CLEMENT: 35. I should also tender in evidence before calling Mr. Wilson some relevant documents. I believe Mr. Wilson has brought the Departmental File and there may be other documents in it of interest to counsel.

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Discussion Re. Procedure

MR. CLEMENT: (cont.) These ones there directly on the question of the lease.

I tender a letter of March 13th, 1959 from North West Trust Company Limited to the Honourable E. C. Manning, reading in these terms:

" Clients of ours have recently acquired the building of the Northwestern Utilities Limited on 104th Street. This building contains approximately 26,000 square feet and we feel that it offers excellent office accommodation. Partitions and lights are installed, including some air conditioning in parts of the building. There are also three lots available for parking which could be rented to you in accordance with your requirements. The building will be available sometime in May or June of this year. My clients are asking for a rental of \$2.75 per square foot and \$15.00 per month per parking stall. However, these figures may be negotiated depending upon the terms of the lease. We would appreciate it if you could advise us if you are interested in this building as we have other people who are interested in it as well. Needless to say we are authorized to give the Government preference if you wish to occupy this building. We will be pleased to provide any further particulars that may be required and look forward to hearing from you. Yours truly, M. A. Miles, Managing Director."

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Discussion Re Procedure
Entering of Exhibits

THE COMMISSIONER:

Exhibit 306.

LETTER OF MARCH 13th 1959 FROM
NORTH WEST TRUST COMPANY LIMITED TO
THE HONOURABLE E. C. MANNING ENTERED
AS EXHIBIT 306.

MR. CLEMENT:

I tender in evidence then, a letter dated March 28th, 1959 sir, there is an intervening letter between the last Exhibit and this one which probably Mr. Wilson will be able to produce from his files. March 28th, 1959 from Mr. Miles to the Department of Public Works.

"Thank you for your letter of March 26th. We have been instructed by our clients to accept the lease on the basis of 26,000 square feet at the rate of \$2.50 per square foot per year for a term of five years --"

And so on. May I have that marked.

THE COMMISSIONER:

Exhibit 307.

LETTER OF MARCH 28th 1959 FROM
M.A. MILES TO THE DEPARTMENT OF
PUBLIC WORKS ENTERED AS EXHIBIT 307.

MR. CLEMENT:

There is a form, agreement to lease form dated April 6th, 1959 which appears to set out some information leading to the form of lease which is Exhibit 35.

THE COMMISSIONER:

Exhibit 308.

AGREEMENT TO LEASE FORM DATED APRIL
6th, 1959 ENTERED AS EXHIBIT 308.

MR. CLEMENT:

There is a letter of May 4th, 1959 and this I will merely table, sir. A letter of May 4th, 1959 from the Supervisor of Property of the Department of Public Works to Mr. Miles, in these terms:

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Entering of Exhibits
E. E. Wilson - Clement Ex.

MR. CLEMENT: (cont.)

"Confirming telephone conversation of today's date we are forwarding one executed copy of the above mentioned lease. We would greatly appreciate if you would return to this office that copy of lease in your possession to which approval by J. Blair, Director of Purchases, is affixed."

Now, there is a letter of May 7th replying to that sir and a letter of May 12th which appear to conclude the correspondence relating to the delivery of executed copies of lease. Mr. Wilson please?

THE COMMISSIONER: Mr. Wilson, you may take a seat at this table here.

MR. WILSON: Thank you sir.

E. E. WILSON recalled, examined by Mr. Clement:

Q Mr. Wilson do you acknowledge that you are under oath for the purposes of this Inquiry?

A I do, sir.

Q You have heard me put in evidence the Exhibits, including Exhibit 35 and the documents related to it, concerning a lease?

A Yes.

Q By the Crown from Mayfair Leaseholds Limited dated April 28th, 1959, of the premises which may be described as the Northwestern Utilities Building?

A Yes sir.

Q Does your file disclose that this matter was originated by

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E. E. Wilson - Clement Ex.

Q (cont.) the letter to Mr. Manning which I read into the record?

A This is correct.

Q There is nothing antecedent to that?

A No, nothing in the files whatsoever.

Q And did you have any knowledge of any negotiations or discussions with anyone prior to the date of that letter?

A None whatsoever.

Q Then what happened after the receipt of that letter to Mr. Manning?

A At this time the Deputy Minister of the Department of Public Works handled all leases. All leases were referred to the Deputy Minister.

Q Who was then?

A Mr. Arnold, Mr. Arthur Arnold.

Q Yes?

A At that time and sometime prior to that I had taken on the function of examining all proposals and with respect to the legal aspect of the people submitting, that they were bona fide owners and it was a bona fide offer.

Q Yes?

A In this particular case I checked into the title of the property in this particular instance and found it was under Northwest Utilities. I then reported back to the Minister of Public Works, that I had checked the file and that there was no abstract of title to show any interest on the part of the people who had made the submission and asked permission to go

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E. E. Wilson - Clement Ex.

A (cont.) and speak to them to ask what interest they had in the property.

Q Yes?

A This I did and I contacted Mr. Miles, the managing director of North West Trust Company who said he had a registered interest and was surprised that the interest was not registered because their lawyers had been instructed to do so. I showed him the Abstract of Title and said this is the situation and naturally we have to know whether you have a registered interest or not. He then said, well, I am afraid that this is a confidential document and I advised him that unless the document was made available to me there could be no further negotiations.

Q Would you just pause Mr. Wilson. Mr. Commissioner, it might be appropriate at this time to put in the documentary evidence showing the state of title.

I tender Certificate of Title 159M67 in the name of Northwestern Utilities Limited to Lot 192 in Block 4 and dated February 1st, 1928.

THE COMMISSIONER: Exhibit 309.

CERTIFICATE OF TITLE 159M67 ENTERED
AND MARKED EXHIBIT 309.

MR. CLEMENT: I tender in evidence the Title 40P67 in the name of Northwestern Utilities Limited, Lot 191 and dated January the 20th, 1928.

THE COMMISSIONER: Exhibit 310.

CERTIFICATE OF TITLE 40P67 ENTERED
AND MARKED EXHIBIT 310.

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E. E. Wilson - Clement Ex.

MR. CLEMENT: Title 9W95 in the name of
Northwestern Utilities Limited, Lot 189 in Block 4 and dated
July 9th, 1942.

THE COMMISSIONER: Exhibit 311.
CERTIFICATE OF TITLE 9W95 ENTERED
AND MARKED EXHIBIT 311.

MR. GILL: The registered owner?

MR. CLEMENT: Oh, I am sorry, these are all
Northwestern Utilities Limited.

Title 119M97 in the name of Northwestern Utilities
Limited, Lots 187 and 188 and dated March 12th, 1943.

THE COMMISSIONER: Exhibit 312.
CERTIFICATE OF TITLE NUMBER 119M97
ENTERED AS EXHIBIT 312.

MR. CLEMENT: Title 236P79 in the name of
Northwestern Utilities Limited to Lot 190 and dated April
27th, 1934.

THE COMMISSIONER: Exhibit 313.
CERTIFICATE OF TITLE 236P79 ENTERED
AS EXHIBIT 313.

MR. CLEMENT: I tender a transfer of land
registered as number 4967LJ of Lots 187, 188, 189, 190, 191
and 192, with an exception, a transfer by Northwestern
Utilities Limited to North West Trust Company Limited and
dated May 1st, 1959. I am sorry sir, that is in now as
Exhibit 32. It shows a consideration of \$360,000.00 paid by
the transferee, North West Trust Company Limited and Donat
Properties Limited and Elizabeth C. Peets.

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E. E. Wilson - Clement Ex.

THE COMMISSIONER: What Exhibit number was that in as?

MR. CLEMENT: That is 32.

THE COMMISSIONER: Thirty-two.

MR. CLEMENT: And I direct the attention of the Inquiry to Exhibit 47 which is the Title 194M174 wherein these lands I have mentioned are shown to stand in the name of North West Trust Company Limited and dated May 1st, 1959.

Q MR. CLEMENT: Now, that is the documentary record of what you were dealing with Mr. Wilson, the state of title in and about this time?

A This is correct.

Q What happened?

A Mr. Miles then advised me he would have to contact his clients to ascertain whether the document showing their interest in the property could be made available to me, which he did. He went to another room and phoned up and came back and said yes, I can show it to you. We only have one copy, I cannot give you the copy but I can get a perma fax made of the document. The perma fax was made and this document is on file here along with the other documents that were proposed to be submitted and the perma fax did not show the signatures so I certified that I had seen the original and that the signatures were on the document.

Q Yes?

A This is the date of the document here which indicated that this property was under purchase by an agreement to

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E. E. Wilson - Clement Ex.

- A (cont.) purchase and a deposit paid, \$20,000.00 as a deposit and the balance was to be paid within so many days. I certified this and addressed it to the Honourable Mr. Hartley, Minister of Public Works with a footnote at the bottom of the correspondence, saying "Check accepted offer of purchase between North West Trust Company and Mr. P. A. Giannone duly executed with \$20,000.00 deposit effective 10th March, 1952, signed E. Wilson, 3rd of April 1959."
- On the Ministers instructions I then went to the Attorney General's Department to determine whether in their opinion whether the writers making the offer, the North West Trust Company Limited and their client had a registerable interest in the property and were in a proper legal position to make the submission they had made and I was advised they had.
- Q Then that having been accomplished Mr. Wilson, what was the next stage in the matter? I draw your attention particularly to Exhibit 306 and Exhibit 307. Exhibit 306, to Mr. Manning proposes a rental of \$2.75 per square foot. There was an intervening letter of March 26th, you have a copy of that letter?
- A I should point out that in the interim period I don't know whether the Deputy was aware of the procedure to check all the legal rights of people making submissions because this is something I had had a directive from the Minister on and this was done whether the Deputy Minister was fully aware of this or not I don't know but he had, apparently discovered from the files, it would appear he had some discussions with

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E. E. Wilson - Clement Ex.

A (cont.) the Honourable Mr. Hartley who would direct him to make a submission at a lower rate and having consideration of the parking, including the parking. So, it would appear from the files that this letter went out at the same time as I wrote and reported on the legal rights to make the submission.

Q Yes. Well now, do you have a copy of that letter of March 26th?

A Yes I do, sir.

Q And may I have it please? A letter of March 26th, sir, 1959 from the Deputy Minister to Mr. Miles.

"I have been instructed by my Minister, The Honourable James Hartley, to negotiate a lease with you for the above mentioned building --"

And so on

"-- at the rate of \$2.50 per square foot for a term of five years. It is understood you will leave in the building all partitions --"

And so on. May I have that marked, sir?

THE COMMISSIONER:

Exhibit 314.

LETTER OF MARCH 26th 1959 FROM THE
DEPUTY MINISTER TO MR. M. A. MILES
MARKED EXHIBIT 314.

Q MR. CLEMENT: And then does your file disclose that in reply to Exhibit 314 Mr. Miles wrote the letter, Exhibit 307 of March 28th, 1959?

A That is correct, sir.

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E. E. Wilson - Clement Ex.

Q So far as your information from the file goes, does that represent the whole of the bargaining in relation to the terms of the proposed lease?

A This is so. This represents the total of sum of the bargaining from the file, this was the total sum of the bargaining although there were some minor incidents in the process of preparing the lease which were filed as minor details. You will find that the lease is more specific than what is contained in the letters.

Q Yes, terms were made more specific and probably some additional terms?

A This is correct, minor changes both ways.

Q Do you identify this document Mr. Wilson?

A Yes. Mr. Clement, may I make a correction in your address on the filing of the documents, you made, on the 14th of May you stated that a copy of the lease was forwarded by the Supervisor of Buildings. It was forwarded by Mr. McCormick who was the accountant and this was under my action. I thought it should be corrected.

I am sorry, I did not realize he ever had that title.

Q But Mr. Wilson, let's just stay for the moment with the principle terms of that lease. Was there any negotiations, any variation come to in the principle terms? I am speaking now of the rental?

A The only detail that was at slight issue and was clarified was the fact that we then got the parking without any additional charge. This was not clearly set out in the

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E. E. Wilson - Clement Ex.

A (cont.) letters but in the lease it is very clearly set out.

Q The original proposal had been according to Exhibit 306, \$15.00 a month for a parking stall?

A This is correct.

Q And then that was then thrown in for free, was it in the end result?

A This is correct and there was a considerable amount of parking, I don't remember precisely how many but something like forty-nine or fifty parking stalls.

Q Do you have any information whatsoever of the intervention of Mr. Hooke in this transaction?

A None whatsoever, sir.

Q Does the file --

A I beg your pardon sir, I do believe that when it came to the document being signed that the Honourable Mr. Hartley was in England at the time and I believe in order to get the document signed it is possible that Mr. Hooke was acting Minister at that time.

Q Well, we can readily look?

A Yes. He was acting Minister, the Honourable Mr. Hartley was in England.

Q Are you able to say whether or not any of the terms of this lease were negotiated by Mr. Hooke?

A Sir, I took this document to Mr. Hooke and he went through the document with me, asked me some pertinent questions on it and he signed the document in my presence.

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E. E. Wilson - Clement Ex.

Q Had he seen it before, so far as you know?

A Not to my knowledge because we prepared the document in our office.

Q And then you took it to him?

A This is correct.

Q Did you have occasion to meet Dr. Allard at anytime during these negotiations?

A I believe that at the time I spoke to Mr. Miles he said he would have to speak to his client and I spoke to Mr. Allard on the phone and he said well, is this absolutely necessary and I said it certainly was necessary that we get a copy of the document or there is no deal.

Q Oh, you are speaking now of your investigation of the title?

A Going back, the only time I had any discussion with Mr. Allard was in Mr. Miles' office when Mr. Miles questioned the availability of this document.

Q Yes. Thank you. Would you answer my friends please?

THE COMMISSIONER: 306 was assigned to the letter of the 26th of March?

MR. SHORT: 314.

THE COMMISSIONER: That is another letter of the 26th of March.

MR. SHORT: Yes.

THE COMMISSIONER: There are two letters of the 26th of March? Exhibit 314 was not produced as an original, I believe it was produced on that file of Mr. Wilson's.

MR. CLEMENT:

Sir, I am adrift now on the other
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E. E. Wilson - Clement Ex.
- Gill Ex.

MR. CLEMENT: (cont.) letter of March 26th.

THE COMMISSIONER: The first Exhibit you produced before
Mr. Wilson was called to the stand.

MR. MAYNARD: March the 13th was the first one.

THE COMMISSIONER: A letter to Manning.

MR. CLEMENT: Oh, that was March 13th.

THE COMMISSIONER: Oh, March 13th, I see.

MR. CLEMENT: Now Mr. Commissioner I will ask Mr.

Short to have a photocopy made of Exhibit 314 so that the
Departmental File can be kept intact.

THE COMMISSIONER: Mr. Gill?

MR. GILL: Thank you.

MR. GILL EXAMINES THE WITNESS:

Q In March of 1959, what was your position Mr. Wilson? You
are hauling a card from your vest pocket?

A This is right. In view of the fact that in all business of
the Government is the same, I took on duties -- I was the
chief before I got the wampum you might say.

Q What did you say?

A As often is the case in major concerns and true of the
Government also, a person gets a job to do before he gets
the appointment.

Q I see?

A In 1959, October 1st 1959 I was officially a property
evaluator. My duties though were more that of a property
administrator and I was being sort of trained to take over

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E. E. Wilson - Gill Ex.

A (cont.) the property administration.

Q There was no such title at that time?

A There was no such title at that time. I became property administrator officially on June 1st, 1963.

Q It took four years to get the title?

A This doesn't surprise you with the Government.

Q So, you were handed the letter, Exhibit 306, March 13th, 1959 from North West Trust to the Premier, Mr. Manning, offering the lease of this building on what date?

A I would have to speculate on the actual date because it was handed to me, I would have to go by date of letter and it would be two days following, two days prior to my notation on having seen the document would be approximately the correct date.

Q Well where is the original copy of the letter of March 13th, 1959, Exhibit 306 Mr. Wilson?

A I imagine the original will be with the Minister's Files.

Q Which Minister?

A Well the Minister, the Honourable Mr. Hartley at that time but his file becomes -- the present Minister becomes heir to the files.

Q You see, what I am concerned about Mr. Commissioner, the letter Exhibit 306 which is before you and I am handing it to you, there is no copy of a notation that appears on the bottom of the Governmental File?

A This is a Xerox -- well, we have the Department File here and it may be on this file.

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E. E. Wilson - Gill Ex.

Q Well, that is what I would like to see?

A What date have we got?

Q March 13th, '59?

A I am afraid that document will have to be got from the Minister's File, we don't have it on file.

Q There is a notation on the bottom of Exhibit 306 of the Government File, March 13th, 1959 to Honourable Mr. Hartley note "Check accepted offer of purchase between North West Trust Company Limited and Mr. P. A. Giannone, duly executed with \$20,000.00 deposit effective March 10th, 1959" signature E. Wilson, date 3 April, 1959. Is that a true and correct copy of your note?

A This is a true and correct copy of my note.

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E. E. Wilson - Gill Ex.

Q Might it be noted that Exhibit 306 bears that notation, sir?

THE COMMISSIONER: Yes.

Q MR. GILL: Thank you. So you would be making your investigation about the 3rd of April of 1959?

A That's the date I signed that notation --- it would probably be two days before that.

Q Right; in whose office did you examine the document of March 10th, 1959?

A Mr. Miles' office of North West Trust.

Q I see; and that was the letter which has not yet been in evidence yet, I believe, the letter of March 10th, 1959, signed by Mr. Giannone addressed to North West Trust Company, offering this property for \$380,000.00; is that correct?

A I think you will find it on file there.

Q The file copy appears to be somewhat mutilated -- .

A This is -- this is a Thermo-Fax, and you know, the way Thermo-Fax, through the years, becomes deteriorated.

Q I see, and you saw that offer at \$380,000.00 accepted by North West Trust Company?

A This is correct, and also a receipt from the lawyers, showing that \$20,000.00 had been received, and the date it was paid.

Q The Thermo-Fax of the cheque of March 11th, payable on the Trust Account of Shortreed, Shortreed & Stainton, and received from North West Trust Company Ltd., \$20,000.00?

A That's correct.

Q Is that the document?

A That is the document.

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E. E. Wilson - Gill Ex.

Q And dated March 11th -- .

A March 11th.

Q And by March 13th they had made the offer to the Premier of the space?

A Correct.

Q Exhibit 314, please.

A Incidentally, this letter -- the letter from the Minister's file can be made available -- there's no problem there.

Q I would be obliged if we might see the original, Mr. Wilson. You had nothing to do with the drawing of the letter of March 26th by Mr. Arthur Arnold as Deputy Minister to Mr. Miles, the Managing Director of North West Trust Company?

A If I had, my initials would be at the bottom of that. There were cases where Mr. Arnold would ask me to prepare a letter -- and if I did so I would be the person that dictated the letter.

Q There are no initials "E.E.W." -- .

A And I certainly don't recall drafting -- I do know it was discussed with me by Mr. Arnold, but I had -- if I had drafted the letter at his request, my initials would be at the bottom.

Q Thank you. But you were not actually negotiating the lease because I notice Mr. Arnold's letter concludes at the bottom of the page on Exhibit 314:

"I shall be absent from the City for three weeks, and would appreciate your contacting my assistant Deputy Minister, Mr. Kenworthy, or Mr. Brettelle, Supervisor

3-M-3

E. E. Wilson - Gill Ex.

Q (Cont.) of Maintenance, concerning this matter."

A Correct.

Q You weren't actually engaged in -- .

A I was not actively engaged in negotiating the lease. My opinion was asked about the proposal.

Q The agreement was finally completed, the agreement and lease on the 6th of April, 1959, under Exhibit 308?

A I believe that's correct, sir. What date was that, please?

Q It appears to bear the date the 6th day of April.

A The actual lease is signed the 28th day of April.

Q No, the agreement to lease form -- .

A Oh, the agreement to lease form?

Q -- Exhibit 308.

A You have that.

Q This document, Mr. Wilson.

A This Exhibit is an unsigned document, as far as I can see.

Q Well, at the top, the first line reads: Place, Edmonton -- and the second line reads, date, April 6th, 1959.

A Yes, but I -- this -- this is correct -- it is an unsigned document -- the Thermo-Fax didn't take the signature. It is an unsigned document.

Q You had some trouble with your Thermo-Fax.

A Well, that's the --- .

Q I'm showing the one in the ministerial files.

A This is correct. Thank you.

Q So who prepared the lease? Did you say your department?

A Our department prepared the lease.

3-M-4

E. E. Wilson - Gill Ex.

Q And that's the Department of Public Works?

A The Department of Public Works prepared the lease.

Q And who actually was the draftsman of the lease?

A The folder appears to have come from my office. I don't recall having had any part in the actual drafting of the lease.

Q But your department prepared it?

A This is -- it is my impression that my department -- and I go by this, by the fact that this is the type of folder we use.

Q A plain grey cover?

A Plain grey cover, which may be able to be purchased elsewhere, but I think these were made for us by the Queen's Printer.

Q Might I see that duplicate copy? It is in evidence, Mr. Wilson, that Exhibit 35, a copy of it --- is that correct?

A This is correct.

Q And it specifies a monthly rental of \$5,416.66, for a period of five years, from May 1st, 1959.

A That is correct.

Q And then on page 7 there was an option to renew for further five years at the same rent, and subject to the same covenants, other than the covenant for renewal; is that correct?

A That is correct.

Q And was the lease in fact renewed?

A I would have to refer to that file to ascertain that, but I don't think it was renewed. I would have to refer to our file, which you have in front of you.

3-M-5

E. E. Wilson - Gill Ex.

Q Would you like to look at it, please?

A Okay.

Q Exhibit 32, the transfer, please.

A No sir, it was not renewed. In 1964 we wrote to (inarticulate) and gave notice of intent to vacate the premises.

Q There were by now new owners?

A There were new owners, that's correct.

Q I am showing you a duplicate of the lease which bears date the 28th of April, between Mayfair Leaseholds Ltd., and Her Majesty the Queen in the right of the Province of Alberta. Do you recognize the signature on page 8?

A I recognize Mr. Hooke's signature.

Q Yes, and he signed as what?

A As acting Minister of Public Works.

Q And there is a seal there opposite his signature. Whose seal is that?

A The Minister of Public Works.

Q And there's some initials opposite his signature in green ink. Whose initials are those?

A They look like Mr. Arnold's initials.

Q Who was then Deputy Minister?

A Then Deputy Minister, this is correct. I am rather puzzled by that. I imagine in order to ratify this, this must have been -- Mr. Arnold's initials must have been put on this prior to going to the Minister because Mr. Arnold, I know, was in England at the time Mr. Hooke signed this; so his initials would be required on it for approval of the lease

3-M-6

E. E. Wilson - Gill Ex.

A (Cont.) before it was signed, and my memory is rather vague at this time, but it would appear that if Mr. Arnold's initials were on this as Deputy Minister prior to it being signed by the Minister, that it must have been just prior to Mr. Arnold -- and Mr. Hartley and Mr. Arnold proceeding to England.

Q When did they proceed to England?

A The letter is on file -- I know it was imminent at that time -- this was going on just as they were getting ready to go to England.

Q I see. Did you examine Exhibit 32, the transfer from Northwest Utilities Ltd., who owned this property for a number of years, to the North West Trust Company -- it's in Exhibit 32, my Lord -- for \$360,000.00, and it is dated the 1st day of May, 1959. Did you, in your investigation, examine that transfer?

A The transfer? I beg your pardon -- ?

Q The transfer of the land.

A From whom to -- ?

Q From Northwestern Utilities Ltd. to North West Trust Company Ltd., Donat Properties Ltd. and Elizabeth C. Peets?

A Yes, this took place after the lease was negotiated.

Q Would you explain to the Commission, Mr. Wilson, how the lease is given by Mayfair Leaseholds Ltd., and I can't at a hurried glance find any reference to Mayfair Leaseholds in either the -- .

A Yes, this is explained on the file. The lease was withheld --

3-M-7

E. E. Wilson - Gill Ex.

A (Cont.) the lease agreement between Mayfair -- pardon me -- I would like to refer this -- in the file here on 8th of April -- 2159 -- a memo from S. A. Friedman, solicitor, Attorney General's Department, to H. W. McCormick, Supervisor -- property -- re-execution of lease to be withheld pending approval of the name of the owners of the building -- not likely to be approved -- postscript --penned -- in letter -- indicates name approved. So this was apparently a company who had submitted a name to the Companies Branch for registration.

Q What relation was that company to Northwestern -- to North West Trust Company -- or do you know?

A I don't know.

Q And yet you made a lease with them?

A Very definitely -- we made a lease with them because at this time -- there was -- documentation was going from Mr. McCormick -- who handed -- documentation with the Attorney General's Department, and anything that was approved was approved by the Attorney General's Department.

Q Is my friend Mr. Maynard getting into the act again?

A No, he wasn't -- .

MR. MAYNARD: I was not Attorney General in '59.
(General laughter.)

Q MR. GILL: Well, how did you know, Mr. Wilson, on the 28th day of April, 1959, and before, up to and including, say, the 1st of April, '59, who was the actual bona fide owner of the building?

3-M-8

E. E. Wilson - Gill Ex.

A I knew from searching the title, and from the --- as -- requesting explanation from the people who had submitted the offer -- as to what -- of the property was -- having been given the documentation as to what their interest was I took this to the Attorney General's Department and said: are these people -- who -- do they have a right in it -- are they fit and proper people to make a submission to the government?

Q It appeared to be a bit hurried, the offer that you saw from North West Trust to Mr. Giannone was dated March 10th, 1959.

A It definitely does appear to be a bit hurried, but there are many deals which are made in a hurried manner.

Q Do you have any explanation as to why it was hurried?

A No, I have no explanation as to why it was hurried.

Q Apparently the transfer reads that -- on the affidavit of the transferee -- that the within described property was sold by transfer to Elizabeth C. Peets, and Donat Properties Ltd., by agreement for sale dated March 13th, 1959, at and for the sum of \$360,000.00. The purchaser's equity in the said agreement was subsequently assigned by assignment dated April 28th, A.D.1959, to the transferee, for the sum of \$380,000.00.

I am reading, Mr. Commissioner, from the affidavit of transferee on Exhibit 32, the transfer from Northwestern Utilities Ltd. to North West Trust.

Did you know of any of those dealings, Mr. Wilson?

3-M-9

E. E. Wilson - Gill Ex.

A Not until after -- I made a point -- I was curious -- I made a point to find out, but not until afterwards, because when I had seen this document it appeared that Mr. Giannone came into the picture for the first time, and Mr. Giannone did not have a caveat on the title -- but in answer to a question which you made previously, you said there seemed to be an unusual rush in this matter. I think all the solicitors in this room are aware that at this time when American tax -- gave relief to people who had investments in Alberta, there was many deals put through in a hurry at that time, and this was the explanation that I gave myself of what appeared to be a very hurried negotiation --- there was many hurried negot -- I was aware -- it was my job to be familiar with what is going on in the way of real estate -- properties and deals -- and negotiations in the City, and this was not by any means the only hurried deal that was going in Edmonton at that time.

Q This was the explanation you say you gave yourself. Did anybody else give you that explanation?

A No, nobody else gave me that.

Q Well, you cut that out of rather strange cloth. You didn't have anything factual on which to base it?

A Oh --pardon me -- I did -- there was --- uh -- uh -- some factual information in this because at that time time I attended a -- convention, and the subject of American interest in Alberta properties was made the subject of discussion at the appraisal meeting -- convention -- and it

3-M-10

E. E. Wilson - Gill Ex.

A (Cont.) was pointed out the reason why.

Q Did you see on the property a caveat by North West Trust Company Ltd. at any time prior to the registration on May 1st, 1959, of the transfer Exhibit 32?

A At the time we inspected the property they had -- (inarticulate) -- on file, I believe -- it showed that Northwestern Utilities was the owners of the property and there was no other caveats on the property other than, I think --(inarticulate)-- if my memory serves right -- but there was no --- (inarticulate) Mr. Giannone or on behalf of North West Trust Company.

Q Did you know that in fact the property was later sold by North West Trust Company Ltd. to someone else?

A I knew that eventually it was transferred to, I believe it was the North West Trust Company or to the company when they registered -- (inarticulate) -- I can't recall what but I know that we did check and also on file is an abstract of title made as -- when the property was transferred.

Q Did you know that on May 4th, 1959, there was a transfer from North West Trust Company Ltd. to George Maxwell Peacock for \$550,000.00?

A I don't recall -- I may have been -- I don't recall at this time.

Q And later Mr. Peacock transferred the land to his client, Amy Guest, for the same amount of money?

A I was --this can be --- I did follow the -- the circumstances.

Q You knew about this?

A I knew about it.

3-M-11

E. E. Wilson - Gill Ex.

Q You knew there had been a rather quick profit between March 13th and -- .

A Very apparent to me.

Q A profit of how much?

A I can't recall how much it was, but I know it was a fairly substantial profit in a very short period of time.

Q Giannone and his friends made three hundred and -- or made the difference between three hundred and eighty and three hundred and sixty -- thousand dollars?

A Three hundred and eighty and three hundred and sixty -- that's a loss, isn't it?

Q Well, no, they bought it for three hundred and sixty from Northwest Utilities, and sold it to North West Trust for three hundred and eighty, as I read the documents in your file.

A This is correct.

Q So they made \$20,000.00?

A I thought they made a little more than that --- if my memory serves me right I thought that they made \$49,000.00.

Q On what did you base that?

A On the facts that were available at the time --- I think from the documents --- there-- the lease --- from the agreement to purchase, which is a \$20,000.00 sum on it -- it's going back several years -- but on this document, if I may have it, I think it shows you the profit that was made.

Q That's the first profit?

A No -- no, -- may I have the file? It was offered to them

3-M-12

E. E. Wilson - Gill Ex.

A (Cont.) for sale for -- it was offered to North West Trust Company by Giannone for \$380,000.00.

Q And how much had Giannone offered for it?

A This has got --- I've got -- at that time I made some enquiries -- I couldn't substantiate it by documentation, but at that time it appeared to me that they made \$49,000.00 -- but I could not substantiate the figure they bought from North West Trust Company. This was the purchase, if I remember, by the Royal Trust Company, who would not disclose--.

Q And then when North West Trust sold on to Mrs. Guest the profit was \$170,000.00?

A Yes -- as a matter of interest I followed -- it was no concern of mine.

Q Why was that? Why was that no concern? You had just leased the building, hadn't you?

A Well, what an owner does with a piece of property is of no concern -- if we went under an agreement to lease --- --- (inarticulate)--- we can do can neither -- (inarticulate)--- or anything else, whether they make a profit on it or not.

Q The lease did happen between the period of these negotiations for the sale of the building?

A Undoubtedly by obtaining the lease the property became more valuable as a saleable asset.

Q I see, and Dr. Allard spoke to you on the phone on the question of title, did he?

A To put in its proper context, sir, when we questioned Mr. Miles as to whether the documents could be made available, Mr. Miles

3-M-13

E. E. Wilson - Gill Ex.

A (Cont.) spoke to Dr. Allard -- and I said, may I speak to Dr. Allard, because it appeared I was not going to get the document, and I said, well, Doctor, if I don't get this document you can forget any lease; and then the document -- (inarticulate) -- document -- made available to me.

Q Did you have sufficient authority to say: you can forget the lease?

A Yes sir, I had sufficient authority; I had been told by the Minister to this effect.

Q Now, that lease, which is in evidence as a duplicate copy, Exhibit 35, is that not a public document?

A Which?

Q The lease, the duplicate copy of the grey document that you were looking at.

A Any and all documents are public documents within reason, sir.

Q Within what reason?

MR. CLEMENT: If you are referring to -- this specific one?

Q MR. GILL: I am referring to this specific lease, Exhibit 35 in these proceedings, and the duplicate copy which Mr. Wilson has identified that was prepared in his office -- .

MR. CLEMENT: It was not obtained by me as a public document; it was obtained from the files of North West Trust Company.

3-M- 14

E. E. Wilson - Gill Ex.

Q MR. GILL: Well, how do you regard that lease as a document, Mr. Wilson? Is that a privileged document in your view?

MR. CLEMENT: This is a question of law, sir, for goodness sake. Mr. Friedman can discuss it.

Q MR. GILL: Did you permit a Mr. Collins to examine that lease?

A May I answer this question in full? Mr. Collins phoned me and asked me whether he could - whether - whether the file - made available to him -.

Q Mr. Wilson, we have a Court Reporter; he and I have difficulty when you go too quick.

A All right, yes. A Mr. Collins phoned me and asked if he could - the file appertaining to this lease could be made available to him. I asked him what was the requirement - his requirements from the file - they are all public documents, but we could not make the files available to everybody and anybody who wished to read our files -.

Q You did tell him they were all public documents?

A I think I did, sir.

Q Good.

A I think I did, sir.

Q Continue.

A I did say that - I asked - is this - immediately prior to an election, if I remember - I said, is this for election purposes - because in any event if you wish access to the file I think they can be made available - but it will have

3-M-15

E. E. Wilson - Gill Ex.

A (Cont.) to be made available with the approval of the Minister.

Q As a Civil Servant why are you concerned with whether a document is connected with election purposes or not?

A Well, we have instructions - and in the Government we take an oath of secrecy, within the Government, and therefore before we can determine whether we are breaking an oath of secrecy we have to go to the Minister and say: May we make this information available?

Q And does it depend on whether there is an election forthcoming or not, whether you break it?

A Not at all. It doesn't depend on - except that if we made a complete file available to somebody just for electioneering purposes I could really - (inarticulate) - not being involved in electioneering.

Q Well, what happened then between you and Mr. Collins and this document?

A I made Mr. Collins' wishes known to the Minister, and the Minister said he may have full access to the file, but we would not - he asked for Xerox copies, and he said we will not make Xerox copies of the files, but he is free to come up and read the file.

Q And then what happened? Was Mr. Collins permitted to copy the lease?

A Mr. Collins came up and was given a desk in the office to sit and peruse the file, and take such notes as he wanted from it.

3-M-16

E. E. Wilson - Gill Ex.

Q But you wouldn't give him a Xerox copy of it?

A From that point, as a matter of fact, I -- and I know this to be so, that I was not available in the office, because I gave instructions to Mr. McCormack that this Mr. Collins be given full access to the file - I said: Clear a table there, give him a seat and make the file available to him to take such information from the file as he wants.

Q And while Mr. Collins was copying the lease you interrupted him and took some photographs, did you not?

A No, I'm sorry, I'm sorry, this is not so.

Q Oh? What happened?

A Well, at the time the photographs were taken I was not there.

Q Were the photographs taken on your instructions?

A No, they were not taken on my instructions.

Q Whose instructions were they that the photographs be taken?

A Since the instructions were not given to me - I - I don't have to guess as to who the - I mean - my senior - the person whom I discussed it with was the Minister, and it was possible the Minister instruct - I don't know whether this is the case or not.

Q But there was a photograph taken of Mr. Collins copying that document, the -.

A This I know to be so. This is correct.

Q You have seen the photographs?

A I have seen the photographs.

Q There were three taken?

3-M-17

E. E. Wilson - Gill Ex.

A I don't know - I only saw one, sir.

Q Well why, when a lawyer is copying a document which you said in evidence is a public document, do you consider it necessary to have -.

A I didn't consider it necessary - as a matter of fact I - I passed through the crowd when this happened and I was embarrassed.

MR. CLEMENT: Mr. Commissioner, I think the inquiry still is as to what - whether Mr. Hooke has been using his office in an improper manner. We seem to be getting a little adrift again.

MR. GILL: I don't know whether Mr. Hooke is a photographer or not, Mr. Clement.

MR. CLEMENT: If he would care to ask the question then perhaps we could find out how relevant this is.

4-B-1

E. E. Wilson - Gill Ex.

Q MR. GILL: I am just interested. Now, Mr. Wilson, you told this Commission that you felt that the appreciation in the value of this building was due to the Government lease?

A I have no doubt of that.

Q Thank you.

THE COMMISSIONER: I think, gentlemen, at this point we will adjourn until tomorrow morning. I think, Mr. Clement, you had something?

MR. CLEMENT: Yes, Mr. Commissioner, I was wondering whether it would inconvenience you, sir, and counsel, if we adjourned at the 11:15 break tomorrow instead of carrying through after the break. I am bound to say it is a matter of personal concern to me but it does involve business which I should give attention to, and if it is not going to inconvenience anybody I would be very grateful.

A Mr. Commissioner, may I, I was recalled from annual vacation after four days to hold myself in attendance for this meeting. I contacted Commission counsel and advised him I would like to have a free tomorrow to go on a hunting weekend, and also for the not next week but the week following that. I was advised that they felt that this would not be out of order and I made such arrangements.

MR. CLEMENT: This is quite true, I should have mentioned this also, sir, that Mr. Wilson has been very good indeed, and I had understood that he had made plans to be away Friday and would be available the following week and

4-B-2

E. E. Wilson - Gill Ex.

MR. CLEMENT: (Cont.) then after that away again. Am I correct about that?

A That is correct.

MR. CLEMENT: Yes, I expect that there will be witnesses available for tomorrow morning, sir, at whatever time you suggest.

THE COMMISSIONER: Mr. Wilson, you will be available when?

A On Monday morning.

THE COMMISSIONER: Monday morning, that's fine.

A I'm sorry, Tuesday morning.

THE COMMISSIONER: No problem, yes, Tuesday morning.

Now, have any of you gentlemen any objection to adjourning tomorrow as suggested by Mr. Clement? We will adjourn on that basis then until tomorrow.

(And the Hearing stood adjourned
at 1:00 P.M.)

